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THE
COMPLEAT CONSTABLE;

BEING A DIGEST OF THE
STATUTE AND COMMON LAW;
DIVESTED OF THE
TECHNICAL LAW TERMS.

TO WHICH ARE NOW ADDED,
PRACTICAL STRICTURES ON THE SEVERAL DUTIES
TO BE PERFORMED IN THE DUE EXECUTION OF
THE OFFICE OF CONSTABLE.

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T H E

COMPLEAT CONSTABLE.

THE Name CONSTABLE appears from the old law books to have afforded matter of much enquiry. It is held to be a compound; but from what two original words it is derived seems yet uncertain. The name is certainly of great antiquity, and has by the curious been traced through various languages, in order to fix its precise signification. It is now generally held to convey this idea, that a Constable is *the stability of the place, or the strong man of the division*; a definition that agrees well with the nature of the Office, which is to protect the innocent from the hand of violence, and to seize and bring to justice, offenders against the public peace. *Its precise signification.*

The different names of High Constable of Laths, Rapes, Wapentakes, Hundreds, and Franchises, and the divers names of Petty Constables, Tythingmen, Bowholders, Boroheads, Headboroughs, Chief Pledges, and such others (if there be any) that bear Office in Towns, Parishes, Hamlets, Tythings, or Borows, are all in effect but two, viz. Constables and Borsholders.—*Lamb. Const. Burn. Vol. I. p. 384.* *The different names a Constable has been called by and how now blended.*

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It is now held, that the office of Constable is distinguished only by the name of *High and Petty Constable*, viz. High Constable for the Hundred, and Petty Constable for a Parish, Precinct, &c. and that the other different names given them arose only from the places they presided over, but that their duty was the same. 4 *Inst.* p. 267.

*Who are
eligible to the
Office.*

It hath been said that a custom in a town, that the inhabitants shall serve the office of a Constable by turns, according to the situation of their several houses, is not good, for that by such mode it may come to a woman's turn to be a Constable, as an inhabitant of one of those houses; yet we find such customs allowed to be good in latter books; and it seems that the consequence of the reasoning above mentioned may well be denied, since a woman in such case may procure another to serve for her.— 2 *Hawk.* 63. *Burn, Vol. I.* p. 388.

Women.

Physicians.

A practising Physician being chosen Constable, in pursuance of such custom has no remedy for his discharge, because there are no precedents of this kind; and his calling is private. *Ibid.*

By *stat. 32 Hen. 8, cap. 40*, the President, Commons, and Fellows of the Faculty of Physic in *London* shall not be chosen Constable.

Surgeons.

By *stat. 5 Hen. 8, and 18 Geo. 2, cap. 15*, Surgeons in *London* shall be freed and exempt from the office of Constable.

By *stat. 6 and 7 Will. cap. 4*, Apothecaries in *London*, and within seven miles thereof, being free of the Company of Apothecaries, and those in the country who have served seven years apprenticeship, shall be exempt from the office of Constable.

Attornies.

It is settled, that if a sworn Attorney, or other Officer of the Courts at *Westminster*, be chosen into this Office, he may have his Writ of Privi-

Privilege for his discharge, by reason of his necessary attendance in those Courts; and it hath been resolved, that such officers shall have this privilege, not only where there is no special custom concerning the election of Constables, but also where they are chosen by a particular custom in respect of their estates, or otherwise, for that no such custom shall be intended to be more *antient* than the usages of those courts; and therefore shall give way to them. 2 *Hawk.* 63.

On the same pretence it is taken for granted, *Barriers* that practising Barristers at Law, and Servants of *at Law.* Members of Parliament, have the same privilege, though no precedents appear in the books *Servants to Members.* to support such privilege. An Alderman of *Aldermen of London.* London, for the same reason, is not compellable to be a Constable. 2 *Hawk.* 63.

Held, that a Captain of the King's Guards, *Captain of the Guards.* being presented to serve as Constable in pursuance of a custom, in respect of his lands in a town, cannot claim this privilege for that. Notwithstanding he is bound by his office to personal attendance on the King's person; yet such office being of late institution, shall not prevail against *antient* custom. 2 *Hawk.* 63.

By *stat 2 Geo. 3, cap. 20, sect. 76*, a person serving for himself, as a private man in the militia, shall, during such service, be exempt from serving as a Constable. *Militiaman.*

If an officer of the guards, a gentleman of quality, who holds no office under government, or a practising physician, be chosen Constable of a town which hath sufficient persons besides to execute this office, and no special custom for serving it, perhaps he may be relieved by the *King's Bench*; but it seems *Where there are others sufficient.* that even custom cannot exempt fit persons from serving the office of Constable, where there are not sufficient, besides them, to execute

cute it. These points seem not to be settled:
2 Hawk. 63.

Dissenting Teachers. By *stat. 1 Will. cap. 18, sect. 11*, every teacher or preacher, in holy orders, or pretended holy orders, in a congregation tolerated by law, shall, from the time of his subscription and taking the oaths, be exempt from the office of Constable.

Prosecutors of Felons. By *stat. 10 and 11 Will. cap. 23, sect. 2 and 3*, the prosecutor of a felon to conviction, or person to whom he shall assign the certificate thereof, shall be discharged from the office of a Constable.

Ideots, poor, old, and sick persons. By *stat. 6 and 7 Will. 3, and 2 Geo. 3*, by this Act of Parliament, ideots, poor, old, and sick persons, are exempt from serving the office of Constable.

N. B. *Having here shewn who are exempt from serving the office of Constable; of course, all others of adult age are eligible.*

Deputy Constables. As the office of a Constable is wholly ministerial, and no way judicial, it seems that he may appoint a Deputy to execute a warrant directed to him, when by reason of sickness, absence, or otherwise, he cannot do it himself. Yet, it doth not seem to be settled, that a Constable can make a Deputy without.

In the case of *Medburst and Waite, Mich. 2 Geo. 3*, the High Constable appointed a Deputy to billet soldiers, under the Mutiny Act. This appointment was by *parole* only, and the Deputy was not sworn before *Lord Mansfield* and the Court. The High Constable hath power by the act to billet soldiers; and he may appoint a Deputy to this particular ministerial act. This is a ministerial (not a judicial) act; and a Constable may appoint a Deputy to do ministerial acts. *Burr. Mansf. page 1259.*

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The superior must be answerable for his Deputy upon any miscarriage, unless the Deputy is duly allowed and sworn, for then he is Constable. *Wood, b. 1, cap. 7.* *Superior to answer for his Deputy unless sworn.*

By *stat. 1 Will. cap. 18, sect. 7*, if any person dissenting from the church of *England*, shall be chosen Constable, and shall scruple to take upon him the office in regard of the oaths, or any other matter required to be done in respect of such office, he may execute it by a sufficient Deputy by him to be provided, to be allowed by such persons, and in such manner as such officers should have been allowed.

The Petty Constable ought to be chosen in the *Leet*, and the High Constable in the *Torn*, which is the *General Leet* of the whole Hundred; if there be no *Leet*, then the Petty Constable ought to be chosen also in the *Torn*. *How chosen and sworn in the Kingdom at large;*

They must be freemen of the city; and are nominated by the inhabitants of the Precinct or Ward, on *St. Thomas's Day*, confirmed or disallowed at the next Wardmote, and afterwards sworn into such office, at the Court of Aldermen, on the *Monday ensuing Twelfth Day*. *London.*

They are to keep the peace in their respective wards. *Their peculiar duty exclusive of what is enjoined them by the statutes.*

They are to search for all nuisances within their district, and present the same.

When required, they are to assist the beadle and raker of the ward, in collecting the scavengers salaries and quarterage.

They are to present to the Lord Mayor and Aldermen all defaults and neglects they may discover relating to the city laws.

They are every month to certify in the Mayor's court, the names and surnames of all freemen deceased; also of the children of freemen, being orphans.

They are to certify the name, surname, place of dwelling, profession, and trade, of

every person who shall be just come into the ward, and keep a roll thereof; for which purpose, they are to enquire once a *month* into what persons are come into the ward; and if such persons are found to be ejected from any other ward for any misdemeanor, and refuse sureties for their good behaviour, they are to give them and their landlords warning, that they depart; and on refusal, they may be imprisoned, and the landlords fined a year's rent.

Constables in their respective wards are to attend the watch by turns, every night, and to go the rounds, and to be paid for such duty according to the custom of the city.

Constables are to certify to the Mayor and Common Council, all persons who obstruct or interrupt them in the execution of the duties of their office.

In *London*, a Constable is not only a Constable within his precinct, but over all the ward and city.

By stat. 10 Geo. 2. The Court of Common Council are yearly to meet on the 1st *September*, to appoint night Constables, &c. and to assess the inhabitants to bear the charge thereof.

The time Constables in the City are to keep watch and ward in the night. They are to keep watch and ward from the 10th *September* to the 10th *March*, from *nine* at night till *seven* in the morning, and from the 10th *March*, from *ten* at night to *five* in the morning.

Constables, how punished under this Act for neglect of duty. If they misbehave in any part of their duty under this Act, on conviction, they are to forfeit *forty shillings* for every offence, to be levied on them by distress, on their goods. The offence to be determined by the Lord Mayor and two Aldermen.

Nota, By this statute, Constables are directed to place the *City Arms* over their doors, and if they live in *Alleys*, at the end of such Alley towards the street.

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By *stat. 29 Geo. 2.* they are appointed by the *Westminster*. Dean, or High Steward of Westminster, at a *Court Leet*, held on *Tuesday* next after *Michaelmas Day*, in every year, from the inhabitants, except ale-housekeepers, victuallers, or retailers of spirituous liquors.

The persons who shall be appointed Constables under this act, shall be chosen out of the several parishes in *Westminster*, as follows, *viz.*

<i>St. Margaret</i>	-	-	14
<i>St. John</i>	-	-	4
<i>St. Martin in the Fields</i>	-	-	14
<i>St. George, Hanover Square</i>	-	-	12
<i>St. James's</i>	-	-	14
<i>St. Ann's</i>	-	-	8
<i>St. Paul, Covent Garden</i>	-	-	6
<i>St. Clement Danes</i>	-	-	6
<i>St. Mary-le-Strand</i>	-	-	2

By this act the summoning a *Leet Jury* is directed, who are to present double the number directed by the statute (being *eighty* fit persons residing within the City and Liberty of *Westminster*) for each Parish, of persons to serve the office of Constable; out of which number the Court shall, in the proportion above mentioned, appoint *eighty* to serve the office of Constable for the year ensuing. *Same statute.*

The Dean, or High Steward, or his Deputy, *How Constables are to be appointed for the City and Liberty.* shall, at the said *Court Leet* to be held at the time aforesaid, appoint an able person, being an artificer, or using some trade of buying and selling (not under the exception aforesaid) to be High Constable for the City and Liberty, for the space of *one year*, or till another be appointed. No person shall serve the office of High Constable for more than *three years* together. The penalty is 20*l.* for refusing to serve the office of High Constable.

By

By the *stat. 31 Geo. 2, cap. 17*, all repairs
Of annoyance of pavements, and removal of annoyances be-
in Westmin- longing to parish churches, public buildings,
ster. or grounds, to be done by the church wardens;
 if belonging to markets, by the proprietors,
 &c. to hospitals, alms-houses, charitable founda-
 tions, &c. by the principal officer thereof;
 and to private grounds, by the owners. The
 Annoyance Jury may present bad pavements
 and annoyances, first giving notice of their in-
 tention to the proper persons; and if the
 same be not removed within *fourteen days*, may
amerce the said persons, according to the na-
 ture of the offence. *Secl. 1, same statute.*

*The power of
 Annoyance
 Jury.*

The Annoyance Jury, where requisite, may
 order the speedy removal of any annoyances
 or obstructions; and on neglect or refusal to
 comply, may *amerce* the offender in a sum not
 exceeding 40s. *Secl. 6, same statute.*

*No boards
 without li-
 cence under
 penalty of
 40s.*

No person shall set up a hoard or fence in
 the streets, without licence first obtained from
 the Court, for which licence shall be paid *five*
shillings, under the penalty of *forty shillings*;
 such licence to be no defence against prosecu-
 tion for a nuisance. *Secl. 7, same statute.*

*Weights and
 measures to
 be fixed,
 sealed, and
 marked.*

Weights and measures in *Westminster* to be
 fixed, sealed, and marked, by the proper of-
 ficer for sealing and marking the same; for
 which shall be paid, for every bushel *four*
pence; for every half bushel *two pence*; for every
 peck, half peck, and quarter peck, *one penny*;
 for all half pecks or quarter pecks per dozen,
two pence; for every sack, *two pence*; for every
 ale and beer measure, *one penny*; for every one
 hundred weight, *four pence*; for every half
 hundred weight, *two pence*; for all pound
 weights, and all other weights under a pound,
one farthing. All weights and measures be-
 longing to persons who deal by weight or
 measure within the said City and Liberty, which
 shall

shall not be sealed and marked as aforesaid, shall be deemed unlawful; and may be destroyed, and the owners *amerced* in a sum not exceeding 40s. *Same statute.*

The person appointed to seal the same, shall pay half-yearly to the Deputy Steward, a moiety of his profits. *Sec. 10, same statute.*

Adjournments of the *Court Leet*, Court may *amerce* Jurymen for non-attendance or other neglect. *Sec. 14, same statute.*

The High Bailiff or his Deputy shall execute all warrants of the *Court Leet*, or *Court of Burghesses*, and pay over the sums received, on penalty of being fined by the Court.

Fines imposed on the High Bailiff, and for default in the premises, to be levied by the High Constable by distress and sale. *Sec. 15, same statute.*

In *London* and *Westminster*, Constables are to be chosen and appointed by the Suitors in the respective Courts, or by the Lord or his Steward in the *Leet*, and the Sheriff in his *Torn*, seems now clearly determined. 2 *Hawk.* 62.

It seems clear, that they are to be sworn and placed in their office, by the Lord, or his Steward; or by the Sheriff respectively, as being Judge of the Court. 2 *Hawk.* 62.

That a custom of chusing Constable either way is good; and it appears to have been the opinion of the makers of *stat. 13 and 14 Car. 2*, hereafter following, that the Lords of the Court and Leet, have this power of common right, and consequently the Sheriff in his *Torn*, where there is no Court Leet. 2 *Hawk.* 93.

Antiently the practice was, that in every Hundred where there was a feudal Lord, the Constables were sworn in, and admitted by the Lord, or his Steward in the *Leet*; but where there was no such feudal Lord, the Sheriff in his *Torn* had the swearing and placing

ing of them in. If there was no feudal Lord of the Hundred, an annual officer was chosen, who was to preside over the whole Hundred, who was called the High Constable. If the Hundred was feudal, as many antiently were, then such Lord of the Hundred administered the office himself. 1 *Bac. Abr. Const. a.*

*Choosing
High Con-
stable.*

The High Constables of Hundreds are to be chosen either at the Session or by the greater number of the Justices of the Division; and that they be sworn at Sessions, or by Warrant from the Sessions, which course hath been often allowed; and commended by the Justices of Assize. *Dalt. c. 28.*

*Justices'
power in
swearing
Constables,
on neglect of
proper of-
ficer.*

Every Petty Constable being a principal peace officer, and it being necessary for the preservation of the peace, that every village should be furnished with one; the Justices of the Peace have, ever since the institution of their office, taken upon them, as conservators of the peace, not only to swear the Petty Constables which have been chosen at a *Torn* or *Leet*, but also to nominate and swear those who have not been chosen at any such Court, on the neglect of the Sheriffs or Lords to hold their Courts, or to take care that such officers are appointed in them. This power of the Justices of Peace having been confirmed by the uninterrupted usage of many years, cannot now be disputed, but must be presumed to be founded on sufficient authority. Some have carried this point so far as to allow the Justices at their Sessions, to swear one who was chosen at the *Leet*, and unduly rejected by the Steward, who had sworn another in his place. 2 *Hawk. 65.*

In the case of *King and Dr. Franchard Hill*, 14 *Geo. 2*, the Doctor was chosen Constable of *Milborne Port*, at the *Leet*, which immediately adjourned, and he was afterwards sworn in by a single Justice of the Peace.—On motion.

motion for an information, as not being duly sworn, the Court held this to be a good swearing. *Str. p. 1149.*

Mich. 21 Car. 2, the Justices of the County of *Northampton*, at their General Sessions, chose a Constable for *Holmby*, and for not coming in to take the oath, proceeded against him. The proceedings being removed by *Certiorari* into the *King's Bench*, it was proved on *affidavits*, that there had not been a Constable there for 50 years before, that therefore he might be discharged; alledging likewise, that *Holmby* was a privileged place, and that all the inhabitants were the Duke of *York's* tenants. The Court held, that they could not discharge him on motion, but that the business must be determined by action of false imprisonment, or some other way, and seemed to think he could not any way be discharged. The Court held, that though originally Constables were chosen in *Leets*, yet the Constable, being an officer whose duty it is to keep the peace, the Justices may chuse him in cases of necessity; as for example, in the Hamlets about the Tower. The Justices, by reason of the increase of buildings, where there was formerly but one Constable, did chuse *five*, and it was ruled they might do so, and seemed to think that though formerly there had been none, yet they might chuse *one*, if they should think it convenient.

1 *Bac. Abr. Const. a.*

It is certain Justices of the Peace had power to nominate and swear Constables, on the default of the *Torn* or *Leet*, before *stat. 13 and 14 Car. 2, cap. 12*, and that they have such authority in some cases not mentioned in that statute, which enacts, "That if a Constable
" shall die or go out of the parish, any *two*
" Justices may make and swear a new one,
" until the Lord shall hold a *Leet*, or till the
" next

“ next Quarter Sessions, who shall approve of
 “ the officer so made and sworn, or appoint
 “ another; and if any officer shall continue
 “ above a year in his office, the Justices in
 “ their Quarter Sessions may discharge him,
 “ and put in another, until the Lord shall hold
 “ a Court as aforesaid.” 2 *Hawk.* 65. *stat.* 13
 and 14 *Car.* 2, *cap.* 12, *sect.* 15.

It is now established as Law, that the *King's Bench* hath power by *Mandamus*, to compel the Court or Judge to swear a Constable duly chosen. 2 *Hawk.* 65.

Constables
 lawfully
 chosen, liable
 to indictment,
 if they refuse
 to be sworn
 in.

• Constables lawfully chosen, if they shall refuse to be sworn, a Justice of the Peace may bind them over to the *assize* or *sessions*, there to be indicted. *Dalt.* *cap.* 28.

The Sheriff or Steward of the *Leet* cannot lawfully commit them for such refusal without more. It is said that if the party be present in the Court, he may be fined; if he be absent, and have a certain time and place appointed him by the Sheriff or Steward, for the taking of the oath before a Justice of the Peace, and have also express notice of such appointment, and be presented at the next Court after having refused to take it accordingly, he may be *amerced*: It seems that in either case he may be indicted either at the *assizes* or *sessions*. It is held adviseable in all pleadings, in any action concerning such a fine or *amercia-*ment, and in all indictments for such refusal, specially and expressly to set forth the manner of every such election, appointment, notice, and refusal, and before whom the Court was holden; *adjudged* insufficient to say in general, that the party was duly elected, or lawfully elected, or that he had notice without setting forth the special circumstances thereof: It hath also been adjudged, that an indictment for not finding a sufficient person to serve the office

office of Constable, without shewing that the party refused to serve it himself, is insufficient.

2 *Hawk.* 64.

By *Stat. 1 and Stat. 2 Geo. cap. 13*, High Constables are to take the oaths of allegiance, supremacy, and abjuration, as other persons who qualify for offices, but they are not within *Stat. 25 Car. 2, cap. 2*, as to receiving the sacrament, and subscribing the declaration against *transubstantiation*; and Petty Constables are exempt from both. *The oath to be taken by High Constables.*

Every High and Petty Constable are by the Common Law, conservators of the peace. 2 *Hawk. 33. Crom. 6. Dalt. cap. 1.* *The Constable's power as a conservator of the Peace.*

If any man shall make an affray or assault upon another, in the presence of the Constable, or shall threaten to kill, beat, or hurt another, or shall be in a fury ready to break the peace, the Constable may commit him to the stocks, or other safe custody, for the present, and after may carry him before a Justice, or to gaol, until he shall find surety for the peace, which surety the Constable himself may also take by obligation, to be sealed and delivered to the King's use. If the party will not find surety to the Constable, he may imprison the party until he shall do it. *Dalt. cap. 1.* *May commit for an affray in his presence.*

The Constable must not require surety of the peace, unless the offence be in his own view, and not if it be committed out of his sight.— The Constable cannot take any man's oath that he is afraid of death, because he is not a judge of *Record*. For this reason an obligation taken by him shall be in his own name, and not in the King's name; and the same shall be certified in the Sessions of the Peace. *Cro. Eliz. 375-376.* *But not when he is absent.*

Held, That the Constable is the proper officer to a Justice of the Peace, and bound to execute his warrants. On this ground it hath been

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been resolved, that where a statute authorizes a Justice of the Peace to convict a man of a crime, and to levy the penalty by warrant of distress, without saying to whom such warrant shall be directed, or by whom it shall be executed, the Constable is the proper officer to serve such warrant, and indictable for disobeying it. 2 Hawk. 262.

His duty as a subordinate officer to Justices of the Peace.

By *stat. 7 James, cap. 5*, on action brought against a Constable for any thing done by virtue of his office, he and all others which in his aid or by his command shall do a thing concerning his office, may plead the *general issue*, and give the special matter in evidence; and if he recovers he shall have *double costs*.

By *stat. 21 James, cap. 12*, the action brought on this statute must be laid in the county where the fact was committed, and not elsewhere.

The Constables indemnity and protection in his office.

Nota, Formerly the Constable was bound to take notice of the jurisdiction of the Justice; for if the Justice issued a warrant in any matter wherein he had no jurisdiction, the Constable was punishable for the execution of it; but now the law is altered. For,

Constables not subject to be punished for the errors of the Justice who issues a warrant for him to serve.

By *stat. 24 Geo. 2, cap. 44, sect. 6*, no action shall be brought against any Constable, or other person acting by his order, and in his aid, for any thing done in obedience to the warrant of a Justice of the Peace, until demand hath been made or left at the usual place of his abode, by the party or by his attorney, in writing, signed by the party demanding the same, or the perusal and copy of such warrant, and the same hath been refused or neglected for *six days* after such demand; and if after compliance therewith, any such action shall be brought without making the Justice who signed such warrant defendant, on producing and proving such warrant at the trial, the jury shall give their verdict for the defendant, notwithstanding any defect

defect of jurisdiction in the Justice. If such action be brought jointly against the Justice and Constable, on proof of such warrant, the jury shall find for the Constable, notwithstanding such defect of jurisdiction as aforesaid. If the verdict be given against the Justice, the Plaintiff shall recover his costs against him, to be taxed in such manner by the proper officer as to include such costs as the Plaintiff is liable to pay to such Defendant, for whom such verdict shall be found as aforesaid.

Nota, In this case the Constable should not return the warrant to the Justice; but keep it by him for his own justification. He cannot give the party a perusal of the warrant, as directed by the foregoing statute, unless he hath it. Therefore, the most prudent way, for his own protection, is to reserve the warrant, though he must certify to the Justice what he hath done in the execution thereof.

Warrant to be kept by Constable, as his voucher for the transaction.

By the foregoing statute, no action shall be brought against any Constable, unless within *six months* after the act committed.

If a Constable is assaulted in the execution of his office, he need not go back to the wall, as private persons ought to do. If in the striving together, the Constable kills the assailant, it is no *felony*; but if the Constable is killed, it shall be construed premeditated *murder*.

Hale's Pl. 37.—1 H. H. 457.

By *stat. 27 Geo. 2, cap. 20*, a Constable executing a Justice's warrant, for levying a penalty or other sum of money, directed by an Act of Parliament, by distress, may deduct his own reasonable charges of *taking, keeping, and selling* the goods distrained, returning the overplus on demand, after such penalty or sum of money and charges are deducted.

How executing a Justice's warrant, for levying a penalty or other sum of money, directed by an Act of Parliament, by distress, may deduct his own reasonable charges of taking, keeping, and selling the goods distrained, returning the overplus on demand, after such penalty or sum of money and charges are deducted.

By *stat. 3 Ja. cap. 10, sect. 1*, a person committed to gaol for any misdemeanor, shall bear

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his own charges (if able) for conveying or sending him to the said gaol, and the charges of those that guard him thither. If he shall refuse at the time of commitment to defray the same, or shall not then pay the same, the Justice committing him shall, by warrant to the *High* or *Petty* Constable where the person shall inhabit, or from whence he shall be committed, or where he shall have any goods within the county, order so much to be sold thereof, as by his discretion shall satisfy the same. The appraisement to be made by four honest inhabitants.

By *stat. 27 Geo. 2, cap. 3*, if such person hath not money or goods within the county, sufficient to bear the charges of himself and of those who convey him to the gaol or house of correction, the Constable may make application to a Justice, who may upon oath examine into, and ascertain the reasonable expences, and shall, by his warrant, (*without fee*) order the treasurer to pay the same; except in *Middlesex*, where the same shall be paid by the overseers of the parish where the person was apprehended.

By *stat. 18 Geo. 3, cap. 19*, as *Constables, Headboroughs, and Tythingmen*, are or may be at great charge in doing the business of their respective parishes, townships, or places where they reside, and in many cases are not sufficiently indemnified by law; this statute ENACTS, That every Constable or other such Officer, shall every *three months*, and within *fourteen days* after he shall go out of his office, deliver to the overseers a just account, in writing, fairly entered in a book to be kept for that purpose, and signed by him, of all sums so by him expended on account of the said parish, township, or place where he belongs. This mode is to be followed in all cases not hitherto

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hitherto provided for by law. He is to give an account of all sums received by him on the account of such parish, township, or place; and the overseer shall within *fourteen days* next after the account shall be so delivered, lay the same before the inhabitants; and if approved by the majority of them, the overseers shall pay out of the poor's rate, such sum as shall appear to be due on the said account.— If the account or any part thereof shall be disallowed, the overseers shall deliver back to the Constable or other officer such book of accounts, who may then produce the said book to a Justice, giving reasonable notice thereof to the overseer, which Justice shall examine the same, and hear and determine any objection that shall be made to the account, and settle the sum which shall appear to him to be due, and enter the same in the account, and sign his name thereto, and the overseers shall pay the same accordingly. *Seet. 4, same statute.*

If the overseer shall find, that the parish, township, or place, is aggrieved by any thing done or omitted by the Constable or other officer, or by the Justice, or shall have any material objection to the account, or to such determination as aforesaid, he may, giving reasonable notice to the said Justice, Constable, or other officer, appeal to the next General or Quarter Sessions for the county or liberty where such parish, township, or place lies, who shall hear and finally determine the same. If it shall appear to the Justices that reasonable notice was not given, they shall adjourn the appeal to the next Quarter Sessions. The Justices may order to the party for whom the appeal shall be determined, reasonable costs in the same manner as concerning settlements by *stat. 8 and 9 Will. cap. 30.* In Corporations which have not four Justices, the

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overfeer may appeal, if he thinks fit, to the Sessions of the county. *Seet. 5 and 6.*

The Justices in Sessions may, from time to time, lay down or alter such rules and regulations, as to any costs or charges to be allowed to any person by virtue of this Act, as to them shall seem just; which rules and regulations having received the approbation and signature of one or more of the Judges of *Affize*, shall be binding, and not otherwise, on all persons whatsoever. *Seet. 9.*

How a Constable is to account, and how removed from his office.

By *stat. 12 Geo. 2, cap. 29, seet. 8*, the High Constables shall, at the General or Quarter Sessions, if thereunto required, account for the general county rate by them received, on pain of being committed to gaol, until they shall account and shall pay over the money in their hands, according to the order of the said court on the like pain.

All High Constables' accounts and vouchers shall, after having been passed at the said Sessions, be deposited with the Clerk of the Peace, to be kept amongst the records, and inspected by any Justice *without fee. Ibid.*

How to be removed.

In such manner as Constables are to be chosen, in the same manner, and by the like authority, they are to be removed. For example :

If there shall be cause to remove, and put an High Constable from his place, it hath not been thought fit, that any one or two Justices shall do it on their discretion; but that it should be done by the greatest part of the Justices of that Division; and that for some just cause, or else, that it be done at the Sessions. *Dalt. cap. 28.*

It is now held, that the Sheriff or Steward of the *Leet*, having power to place a Constable in his office, have by consequence a power of removing him. *2 Hawk. 63.*

The

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The Justices of the Peace have also used, *for good cause, saith Dr. Burn*, to displace all such Constables as have been chosen and sworn by them. 2 Hawk. 65.

By *stat. 13 and 14 Car. 2, cap. 12*, if a Constable shall continue above a year in office, the Sessions may discharge him and put another in his place, till the Lord shall hold a *Lect.* Sect. 15.

If the Court or other inferior Judge shall refuse to discharge a Constable, they may be compelled so to do by an application to the *King's Bench* by *mandamus.* 2 Hawk. 65.

By *stat. 4 Edward 4*, every High Constable of a *Hundred*, every Steward keeping *Wapentake* or *Lect.* out of any City or Borough, shall have power to hear and determine the complaints of any clothmaker, carder, spinster, and other labourers in the manufacturing of cloth, by the examination of the parties; and if found guilty, to commit the offenders to the next gaol within the county where the offence was committed, till the duties, forfeitures, and damages incurred by the party is fully paid. *Constable's duty under the statutes.*

By *stat. 39 Eliz.* the High Constable is by this statute impowered to enter the premises of any clothier, and to search if he has any ropes for stretching cloth, secreted in or about his premises. If on such search he finds any, he must destroy the same. If they are again used by the clothier, the Constable may again seize and sell them, and distribute the money they produce on such sale, to the poor of the parish where the offence is committed. If any person obstructs the Constable in his duty, he is to forfeit 10*l.* *Their power to search for ropes for stretching cloth, and to seize the same. How to be disposed of on second seizure.*

By *stat. 14 Eliz.* all money assessed on any parish, for the relief of prisoners, is to be paid by the proper officer to the High Constable, *Money assessed on a parish for the relief of* and

*prisoners, to
be received
by the High
Constable,
and paid to
Collectors.*

and to be by him paid over to the Collector appointed by the Quarter Sessions to receive the same; and on his neglect so to do, he is to forfeit 5l.

By *stat. 43 Eliz.* the High Constable is also to pay the monies he receives in the *King's Bench* and *Marshalsea*, in the same manner as directed by the former statute; and on his neglect so to do, he is to forfeit 20s.

He is also to receive all monies given for the relief of maimed soldiers and mariners, and to pay and apply the same in manner aforesaid; and on his neglect so to do, he is to forfeit 40s.

*Petty Con-
stables how
rewarded
for appre-
hending va-
grants.*

By *stat. 17 Geo. 2*, if any Constable shall apprehend and convey a rogue or vagabond before a Justice, and he is convicted, the Justice before whom he shall be convicted is to reward such Constable, by making an order under his hand and seal, on the High or Chief Constable, to pay such Petty Constable the sum of 10s. within *one week* after demand; the Petty Constable producing to the High or Chief Constable the order made by the Justice, and giving the High or Chief Constable a receipt for such reward.

*High Con-
stables duty
in collecting
and paying
monies raised
for the Poor.*

By *stat. 12 Geo. 2*, all monies raised for the poor by a general county rate, are to be collected by the High Constable of the *Hun-*
dred.

All monies collected by the church wardens and overseers of parishes, are to be paid to the High Constables in *thirty days* after demand made on them for the same, or such monies to be levied on them by distress, by warrant of two Justices of the Peace. *Ibid.*

*How to be
paid by the
High Con-
stable.*

High Constables are to pay the monies they receive on the account aforesaid, to the Treasurers appointed by the Justices, and to be used and applied in such manner as the Justices at their Sessions shall direct or appoint. If

High

High Constables refuse or neglect to account to the Justices for the monies they received, they are to be committed to gaol until they do. *Ibid.*

Nota, No part of these monies to be applied to the repair of any bridges, gaols, or houses of correction, until the presentment made thereof by the *Grand Jury*, at the *Affizes* or *Quarter Sessions*.

Appeals may be brought to the next *Sessions* against any rate made on any particular parish, where they are over-rated. *Same statute.*

*Persons ag-
grieved un-
der this Sta-
tute how to
be redressed.
High Con-
stables duty
as to sum-
moning ju-
ries.*

By *stat. 4 Will. and Mary*, High Constables, on receiving warrants from the Justices, are to summons the Petty Constables to meet and prepare lists of persons qualified to serve on juries.

By *stat. 3 Geo. 2*, on the High Constable's receiving the lists from the Petty Constables, they are to deliver them into the *Quarter Sessions*.

By *stat. 3 and 4 Anne*, if the High Constables fail or neglect to summons the Petty Constables, as they are directed by the act, they forfeit *10l.* for such neglect.

By the same statute, they must deliver correct lists *on oath*, of all persons qualified within their respective parishes to serve on juries; in such lists they must be careful to insert the christian and surnames, occupation and place of abode, of such persons so returned, to enable the *Sheriff's Officers* to summon them.

*Petty Con-
stables duty
in summon-
ing persons
to serve on
juries.*

On the *Coroner's* warrant, they must summon competent persons to sit on a jury for discovery of murder, chance medley, &c. *Ibid.*

By *stat. 4 James 1*, if Constables do not deliver the poor's moiety of forfeiture, being *6s. 8d. per barrel*, for selling ale in an unlicensed public house, to the church wardens of the parish where the penalty is incurred, or if the church.

*Penalty on
Constables
not deliv-
ing to Church
wardens,
&c. the*

moiety of forfeiture be-
longing to
the poor for
selling ale in
an unlicensed
house.

Penalty on
Constables
for not levy-
ing the for-
feiture on
publicans for
keeping short
measure.

church wardens, having received the same of the Constable, do not distribute the same according to the direction of the act, both one and the other are liable to forfeit double the value of the penalty incurred.

By *stat. 11 and 12 Will.* if Constables in their respective districts do not levy 20s. being the penalty under this statute, on ale-house keepers selling less than measure; such Constable is liable to forfeit 40s. to the use of the poor of the parish where the offence is committed. If Constable has not goods or effects, out of which the penalty may be levied, he is liable to be committed to gaol till the penalty is paid.

Unmarked
vessels, &c.

Publicans selling in unmarked vessels, &c. incur a forfeiture of not more than 40s. and not under 10s. one moiety thereof to go to the informer, the other to the poor of the parish where the offence is committed. *Same statute.*

Penalty on
Constables
for not levy-
ing the for-
feitures on
ale-house
keepers,
for letting
persons sit
tippling in
their houses.

By *stat. 11 and 12 Will.* Constables neglecting to levy 10s. on ale-house keepers, convicted of suffering persons to sit tippling in their houses, or not levying 3s. 4d. on persons convicted of such offence, liable to forfeit 10s. *Stat. 1 Jas.*

Nota, These several forfeitures aforementioned, are to be levied under and by the virtue of a warrant from a Justice of Peace living within the district where the offence is committed.

Penalty on
persons re-
fusing to
give evi-
dence of these
forfeitures.

By *stat. 26 Geo. 2,* all persons refusing to give evidence, on oath, before a Justice of the Peace, (when called on for that purpose) of any person suspected of selling ale, beer, or other liquors, without licence, are liable to forfeit 10l. such forfeiture to be levied by distress on their goods and chattels. The seizure to be made by the Constable of the district, and the penalty to be paid by them to the overseers of

of the poor of the parish where the offence is committed.

By *foregoing stat. and stat. 28 Geo. 2.* all persons selling ale, beer, or other liquors without a licence, are liable to forfeit for the *first offence*, 40s. the *second* 4l. the *third* and every other 6l. to be levied by distress on their goods and chattels. The seizure to be made by the Constable of the district, and the penalty to be paid as follows: One moiety to the informer, the other to the overseers of the poor of the parish in which the offence was committed, to be applied by them for the use of their poor. And if the party or parties offending against this statute have no goods and chattels on which such penalties can be levied, they are to be committed for *one month* for the *first* offence, *two months* for the *second*, and for the *third*, till they are discharged by an order of the General Quarter Sessions.

Penalty on persons selling ale, beer, or other liquors without a licence.

Penalty to be levied by the Constable.

By *stat. 31 Geo. 2.* all High and Petty Constables are to obey all orders of the General Quarter Sessions, and the Petty Constables are to aid and assist the High Constable in all orders delivered to him to execute, under the penalty of being amerced by the Court.

High and Petty Constables how to conduct themselves in their stations.

All fines imposed on the High Bailiff, for any default or neglect of duty under this statute, are to be levied by the High Constable, by distress, &c. *Same statute.*

Penalty levied by High Constable.

By *stat. 1 James*, if the Constable of the district neglects or refuses to levy the penalty imposed by this act, on persons keeping ale-houses without licence, which penalty is 20s. or if there is no goods and chattels of the party offending, to make a distress for recovering such forfeiture, to cause the party offending to be apprehended and whipped; such Constable is liable to forfeit 40s. or if incapable to pay such fine, to be committed to gaol till the offender

Penalty a Constable incurs in not levying the penalty on persons keeping ale-houses without licence.

fender has received such punishment as is directed by this statute.

How Constables are to conduct themselves to prevent artificers quitting the Kingdom.

By *stat. 5 Geo.* the Constable, on having sufficient proof that a person who exercises any particular manuel art or calling, is about to depart the kingdom, and going to reside in foreign parts, is empowered by this act to procure a warrant from a Justice of Peace, and to bring such person before the Justice, that he may be bound over to give security that he will not depart the realm.

Constables power to prosecute persons keeping bawdy houses.

By *stat. 25 Geo. 2.* the Constable of the district is, on information given him by two inhabitants there, who pay *scot and lot*, which information is directed to be in writing, of any body keeping a bawdy-house, gaming-house, or any other disorderly house in such parish, to go forthwith with such inhabitants before a Justice of the Peace, and on their making oath that they believe the same to be true, and entering into a recognizance of 20*l.* each, to produce material evidence against such person for such offence, the Constable is to enter into a recognizance of 30*l.* to prosecute with effect, such persons for such offence; the Constable to be allowed all reasonable expences that he may incur in such prosecution, his charges for such business to be settled and ascertained by two Justices of the Peace, and the amount paid by the overseers of the poor of the parish where the offender resided when the offence was committed.

*Constable to enter into a recognizance of 30*l.* to prosecute. His expences to be settled and allowed by two Justices.*

Penalty Constable incurs on neglect to comply with the act.

If the Constable refuses to comply, on such requisition made to him as aforesaid, or is guilty of any wilful neglect in prosecuting the business, he shall for such offence forfeit 20*l.* to such inhabitant so giving him notice as aforesaid. *Same statute.*

Nota, Persons who are parishioners, or who have entered into such recognizance as aforesaid, may be evidence

evidence for the plaintiff or defendant on the prosecution, as directed by the above statute.

By *stat. 22 Hen. 8.* This statute enjoins a Constable, where a common bridge is run to decay (within the parish or district where he resides, and is duly chosen as Constable) and it is not known who are the persons liable to repair the same, to assemble and call together, two of the most able inhabitants in the parish, to make an assessment on the said parish, to repair the same; and such assessment when made, is to be confirmed and allowed by four Justices of Peace.

Constable's duty, as to repair of decayed bridges.

Nota, By *stat. 1 Anne,* Justices at their Quarter Sessions, on the decay of such bridges being presented to them, may assess every town, parish, &c. in proportion, towards the reparation thereof, which assessment so to be made by the Justices at their Sessions, is directed by this statute to be levied by Constable, Headborough, &c. by distress, &c. if not paid in *ten days*; when the money is paid, it is to be paid to the treasurers of the county where such repair is to be made.

To be levied by Constable, Headborough, &c.

But *stat. 13 and 14 Car. 2, and 4 and 5 Will. and Mary*; by these statutes, the sellers of bad butter are liable to the penalty of 20s. on being convicted of such offence, which the statutes direct shall be levied by the Constables of the town or parish where the offence is committed.

levy the penalty for selling bad butter.

By *stat. 4 and 5 Geo.* if any taylor makes cloaths with cloth or stuff buttons, or button holes, he is by these statutes liable to forfeit 40s. per dozen for such offence; to be levied by the Constable in the same manner as under other penal statutes.

Constables to levy the penalty on taylor's making buttons or button holes with cloth.

Nota, The same penalty is incurred by weavers, making such cloth. *Same statute.*

D

By

*Constables to
levy the
penalty on
persons
wearing
cambrick or
lawn.*

By *stat. 20, 21, and 28 Geo. 2*, all persons wearing cambrick, or French lawn, in any garment or apparel, are to forfeit to the informer 5*l.* for every offence; such offence to be exhibited against them before a Justice of the Peace, within *six days* after the same is committed. The penalty to be levied by the Constable on the offender's goods and chattels.

*Constable's
duty as to
providing
for soldiers
on the march.*

By *stat. 2 Geo. 3*, the Justice is to issue out orders to the Constable in his district, to provide carriages on the marching of soldiers, which orders he is immediately to comply with, so that the service of the state is not neglected or delayed. The farmer, or others impressed in this service, is under this statute to be allowed *1*s.* per mile* for a waggon with *five horses*, or a wain with *six oxen*, or *four oxen and two horses*; and *9*d.* per mile* for a cart, and so in proportion for the number of cattle employed.

Officers of regiments obliging Constables to provide saddle horses, forcing horses from owners, &c. or making a carriage travel more than *one day*, or not discharging the same in *due time*, or suffering the soldiers or servants (except sick) or women, to ride in the waggon, &c. to forfeit *5*l.** *Same statute.*

If the Constable refuses to execute the Justice's orders, or any other person attempts to hinder the Constable in the execution of his duty, parties offending to forfeit a sum not exceeding *40*s.** nor under *20*s.** to be determined by a Justice of Peace. The penalty when levied, to be applied to the use of the poor of the parish where the offence was committed. *Same statute.*

*Penalty on
Constable re-
fusing to
obey Justice's
orders on
this duty.*

If the Constable is at a greater charge than what is allowed by the statute, for the providing carriages for the use of the military on their march, he is to be reimbursed by the

treasurer

treasurer of the county; by an order made on him by the Justices at their Quarter-Sessions. This business is to be done without fee or reward. *Same statute.*

No waggon is obliged to carry above *thirty hundred weight.* *Same statute.*

He is to keep a regular list of quarters for soldiers, and of the number of soldiers usually billeted there, to avoid imposition in quartering, either a greater number than is assigned to you by your High Constable; and also to prevent those assigned to you from fraudulently obtaining double quarters. The Constable is to be ready at all times, when called on, to produce a perfect account of the number and places where he has quartered soldiers, to frustrate any complaint made against him to the magistracy, of partiality.

Constable to keep a list of the houses in which soldiers may be quartered, and of the soldiers there billeted.

The Constables are required to deliver in to the Sessions, on oath, a list of the houses liable to receive soldiers, and the number of soldiers quartered upon them in their respective districts. If the lists are defective, the Constable is liable to forfeit 5l. If a Constable takes from a publican any reward, to excuse him from having any soldiers quartered on him, he is liable to pay a penalty not exceeding 5l. and not less than 40s. to be determined before the Justice before whom the complaint is heard. The publican is liable to the same penalty for refusing quarters to soldiers, or not providing them what the law allows them in their quarters.

In Westminster.

By *stat. 18, 20, and 32 Car. 2*, Constables, Tythingmen, &c. have a power to take and seize all cattle, sheep, swine, beef, pork, bacon, &c. brought from Ireland. They are to cause the cattle to be killed in *six days* after the party is convicted of the offence. The hides and tallow, on such conviction, to become the property

Their power to seize cattle, &c. imported from Ireland.

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perty of the feizer, and the remainder to be delivered to the church wardens, for the use of the poor of the parish to which such contraband commodities were imported or found.

Constables, &c. not giving notice in *six days* after conviction, to church wardens, &c. or not distributing the same as directed by the statutes, to forfeit 40s. for every one of the great cattle, and 10s. for the small ones; one half to the poor of the parish as aforesaid, and the other to the informer. If the Constable is not possessed of goods and chattels, to levy the penalties on, to be committed to gaol for *three months*. *stat. 32 Car. 2.*

If Constable has not property, to be committed for three months.

Cattle liable to a second seizure.

If the cattle are found alive in any other parish, after they are first seized, they are liable to a *second* seizure; and if any other cattle are with them, such cattle are liable to be forfeited. *Same stat.*

Who Constable is to assist in the execution of their duty.

By *stat. 13 and 14 Car. 2*, the Constable is (on request) to aid and assist the Wardens, and Assistants of weavers of *Norwich* and county of *Norfolk*, in regulating that part of the cloathing trade.

To assist the Wardens of the Borough of Kidderminster.

By *stat. 22 Car. 2*, the Constable is to assist the president Wardens, and for regulating of *Kidderminster* stuffs in the Borough of *Kidderminster*.

They are to levy the penalty incurred by embezzling any woollen materials.

By *stat. 13 Geo. 2*, if any person embezzle any woollen materials, &c. they are to forfeit double the value of the goods embezzled; or be sent to the house of correction, and there whipped and kept to hard labour for *fourteen days*. For the *second* offence, he is to forfeit *four times* the value, to be levied on his goods and chattels by the Constable, &c.

Constable to search on warrant for cloth taken

By *stat. 15 Geo. 2*, by a Justice's warrant, the Constable is to search for cloth taken away in the night from tenters; and yarn and wool left

left out to dry; and levy a forfeiture of *treble* off tenses, &c. value on the offenders.

By *stat. 19 Geo. 2*, they are to levy all forfeitures incurred by any defect in the *coal* They are to levy the forfeitures on defects in the coal measure. measure.—Forfeitures not exceeding *5l.* are to be levied by the Constable, by distress. One moiety to go to the informer, the other to the poor of the parish where the offence was committed. If offenders have not goods and chattels, on which such distress can be made, to be committed to hard labour for not more than *thirty days*, or less than *fourteen days*.

By *stat. 22 Car. 2*, they are required to levy *Constables to levy fines on* fines imposed on such persons as are at unlawful conventicles, by warrant under the hand of *persons at unlawful conventicles.* one or more Justices.

If they know or are informed of such unlawful meeting within their precincts, and do not inform some Justice thereof, so as the party may be convicted and brought to justice, they are to forfeit *ten pounds* for every such offence. *To forfeit 5l. for not giving information of an unlawful meeting.*
Same statute.

On information of these meetings, the Constable, with his assistants, by warrant (on refusing to let him enter) may break open doors, and enter into any house or place where such meetings are, and take all the parties there assembled into custody. *By warrant (on refusal) to break open doors, and take parties assembled.*
Same statute.

By *stat. 1 Will. and Mary*, the houses of *The Houses of Peers, &c.* Peers are not liable to be searched under this statute, nor Protestant Dissenters. *not liable to be searched.*

By *stat. 22 Car. 2*, if sued for any act done under this statute, the party against whom brought may plead the *general issue*, and give the special matter in evidence, and recover *treble costs.* *Persons against whom action brought may recover treble costs.*

By *stat. 12 Geo. 2*, if curriers do not curry leather sent in to them within *sixteen days* after brought, between *Michaelmas* and *Lady-day*, and in *eight days* at other times, they are to forfeit *the* Constable to levy this penalty by warrant from a Justice.

forfeit for such offence, *five pounds*; which forfeiture is to be levied on them by a Constable, by warrant from a Justice of Peace.

Constable (on request) to assist Crown officers in collecting duties.

By *stat. 12 Car. 2*, the Constable (on request made to him) is to assist persons having warrants from the Lord Treasurer, Barons of Exchequer, or Chief Magistrates of Ports, to search for goods that have not paid duty.—The Constable may enter into any house in the *day time* on this duty; if resisted, he may break open doors. The breaking open doors must be within *one month* after the offence committed.

To take suspected persons on the sea coast, and to receive as a reward for the same, 201.

By *stat. 9 Geo. 2*, they may take up any person lurking about the sea coasts, suspected to be concerned in running goods, and carry such suspected person before a Justice. If the party suspected does not give a good account of himself, he is to be committed to the house of correction for a *month*, and the Constable is to receive for a reward, for every offender he takes, *twenty shillings*.

Constable to levy the penalties on deer-stealers.

By *stat. 13 Car. 2*, the penalties on deer-stealers are to be levied by a Constable, by warrant from a Justice; and they may detain offenders *two days* in their custody, if they do not pay down the forfeitures, on conviction, until a return be made of the warrant of distress.

These forfeitures to be levied by a Constable.

By *stat. 13 Car. 2, c. 3, and 4 Will. and Mary*, the forfeitures are *twenty pounds* for coursing or hunting deer in any park or place inclosed; and *thirty pounds* for every deer taken, wounded, or killed. One third of the penalty to go to the poor of the parish where the offence is committed, another third to go to the informer, and the remaining third to the owner of the deer.

May carry away veni-

The Constable may enter suspected places, and carry away the venison, skins, oils, &c. by

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By warrant from one Justice of the Peace. He *son, &c. by* may likewise carry the party before a Justice *warrant of* of the Peace, to give an account of himself. *a Justice.*

By *stat. 3 and 4 Geo. 3,* the Constable *To receive a* may take up a person suspected of desertion, *reward of* and carry him before a Justice of the Peace. *20s. for up-* If he is found to be a listed soldier, the Justice *prebending a* shall commit him to the county gaol, and *deserter.* send an account thereof to the Secretary at War. The Constable is to receive a reward of *twenty shillings* for apprehending such deserter, to be paid him by the Collector of the Land Tax, on a warrant from the Justice for that purpose.

By *stat. 3 and 4 Will. and Mary, and 10* Constable to *and 11 Will. 3,* they are to enter the houses *assist the* of distillers, to seize unlawful stills, and are to *Excise offi-* levy the penalties for setting up any private *cers in their* still, tun, pipe, &c. by warrant from a Justice *duty.* of the Peace.

By *stat. 6 Geo. 1, and 6 Geo. 2,* persons distilling spirituous liquors, and selling them *To levy the* about the streets, without licence, forfeit *penalty for* *ten* *distilling and* *pounds;* to be levied by the Constable, by *selling li-* warrant from a Justice of the Peace. *quors with-* *out licence.*

By *stat. 26 Geo. 2,* persons retailing spirituous liquors, without licence, shall, besides *Further pe-* the former penalties, be liable as follows:— *nalties for* *the same of-* *fence.* For the *first offence,* all distilled liquors found, or in *six months* after in his custody, or in the custody of any other person belonging to him, may be seized by warrant from the Commissioners, or any Justice of the Peace, and be forthwith staved or otherwise destroyed; and the peace or parish officers, authorized by such warrant, have power within *six months* after conviction to enter as aforesaid, and to break open doors if not opened (on demand). For the *second offence,* the party is to be committed and kept to hard labour for a time, not exceeding

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ceeding *three months*; and also, (if the Commissioners or Justices shall think fit) be ordered to be whipped. For the *third offence*, they are to be deemed guilty of *felony*, and be transported for a term not exceeding *seven years*.

Their power to enter any gaol, prison, &c. to search for spirituous liquors.

By *stat. 24 Geo. 2*, the Constable, by warrant, may enter and search any gaol, prison, house of correction, work-house, or house for the reception of parish poor; and in case any spirituous liquors are found therein (except what is prescribed by a regular physician, &c.) he may seize the same, and cause it to be forthwith destroyed.

Their duty in matters of distress for rent.

By *stat. 2 Will. and Mary, 8 Anne, and 11 Geo. 2*, the Constable is to assist the landlord, or other person who distrains for rent, through the whole process.

They are to levy the penalty for drunkenness.

By *stat. 11 and 21 Ja.* the Constable is to levy the sum of *five shillings* on persons convicted of drunkenness; to be applied for the use of the poor of the parish where the offence was committed. If the offender is not able to pay the penalty, he is liable to be set in the stocks for *six hours*, &c.

Penalty on Constables refusal.

By *stat. 4 Ja. cap. 5*, if the Constable neglects to levy the same, on a warrant to bring him before a Justice of Peace, he shall be fined *ten shillings*.

Constable to levy penalties on dyers for dying cloth deceitfully.

By *stat. 13 Geo.* if the offender is convicted of the offence set forth in this Act, and the penalties not paid, the Constable is to levy the same on the goods and chattels of the offender.

How penalties to be applied.

The forfeitures incurred within *ten miles* of London, to go one moiety to the *Dyer's Company*, the other to the informer. If committed above that distance, the whole penalty to go to the informer. *Same statute.*

By

By *stat. 12 Car. 2, and 1 William*, the Constables, on warrant from a Justice of the Peace, is to levy the penalties on offenders against any of the Excise Laws, by distress, &c. If the offender hath no goods and chattels whereon the Constable can make a distress, he is to carry him to gaol, there to remain till satisfaction is made.

Their duty on executing warrants relating to the Excise Laws.

By *stat. 27 Eliz.* if a felon flies from a Constable, he is impowered to seize and make an inventory of his goods, and send hue and cry after him. If he is taken in another county, he must be committed in the county where taken.

Constable to make inventory of felon's goods who escapes from him, &c.

By *stat. 16 Car. 2*, whoever discovers, apprehends, and prosecutes any offender returned from transportation, to have twenty pounds reward.

Reward for offenders returned from transportation, &c.

By *stat. 6 Anne*, houses in London not built according to this statute, the offender to forfeit fifty pounds; to be levied by the Constable, on warrant from a Justice of the Peace.

To levy the penalty for buildings not according to Act.

On breaking out of any fire, the Constables, &c. in their respective districts, are to attend and assist in stopping its progress, and to keep the people attending, to work the engines, &c.

To assist at fires.

Same statute.

By *stat. 22 and 23 Car. 2*, persons fishing in rivers without the owner's consent, liable to forfeit ten shillings, for the use of the poor of the parish where the offence is committed; to be levied on the offender by the Constable.

To levy penalty on persons fishing in rivers without power from owners.

By *stat. 3 Ja. cap. 12*, offenders incur the same penalty as in former statutes, for fishing with nets of improper size, on the sea coasts, or in any haven or brook, or within five miles thereof; to be levied by Constable, by warrant from Justice of Peace.

The same when they fish with nets of an improper size on sea coasts.

By *stat. 3 Car. 2*, Constables, on warrant, are to search in Shropshire, Worcestershire, and Gloucester-

To search for unlawful

nets in Shropshire, Worcester-
shire, and Gloucestershire.

To levy penalties for taking salmon at an improper time and size in counties of Southampton and Wilts.

For fishmongers selling salmon of an improper size.

To search for bone lace, &c.

To present forestallors, &c.

To carry bigglers before a Justice if a hare, &c. is found in their custody.

To enter the house of unqualified persons, to search for game.

To levy penalties on qualified

Gloucestershire, for unlawful nets to take fish. If found, to seize the same, and carry them to the Quarter Sessions to be destroyed.

By *stat. 4 Anne*, no salmon to be taken between the 1st *August* and 12th *November*, in rivers in the county of *Southampton* and *Wilts*; nor salmon and trout under size, &c. under the penalty of not less than *twenty shillings*, nor above *five pounds*; to be levied by the Constable, by distress, &c.

By *stat. 2 Geo. 3*, salmon bought of fishmongers, are to be *six pound* weight, under the penalty of *five pounds*, and other fish to be of certain length therein specified, under the penalty of *twenty shillings*.

By *stat 13 and 14 Car. 2*, the Constable is to search, on warrant from a Justice of Peace, for bone lace, &c. in shops, warehouses, and dwelling-houses, and if found to seize the same.

By *stat. 31 Geo. 2*, the Constable is to present, at Quarter Sessions, forestallors of markets, and ingrossers and regrators.

By *stat. 5 Anne*, Constables are to carry higglers, chapmen, inn-keepers, &c. before a Justice, if any hare, pheasant, or other unlawful game is found in their custody; the penalty is *five pounds* for every hare, &c. half to the poor of the parish, and the other half to the informer.

By *stat. 22 and 23 Car. 2, and 4 and 5 Will. and Mary*, the Constable, on warrant, may enter the house of unqualified persons, to search for unlawful game; if any found, he is to carry the same, with the offender, before a Justice of Peace, to be dealt with according to law.

By *stat. 28 Geo. 2*, no person qualified is to kill and sell game; if he is convicted thereof, he

he incurs the penalty of the 5th *Anne*, viz. *five persons selling game.*
pounds for every hare, &c. he sells. *Poulterers,*

Any hare, pheasant, &c. found in the shop, *salesmen,*
 house, or possession of any *poulterer, salesman, &c. to the*
fishmonger, cook, or pastry cook, shall be same penal-
 deemed an exposing thereof to sale. *ties.*
statute.

By *stat. 33 Hen. 8, cap. 9*, Constables are *To search*
 to search once a *month* where unlawful games *once a month*
 shall be kept, and may seize and imprison the *where un-*
 masters and gamesters till they find sureties. *lawful*
 The masters to forfeit *40s. a day.* *games are*
played.

There is another penalty of *six shillings and* *Further pe-*
eight-pence for using unlawful games; on de- *nalty for*
 fault of which they are to be set in the pillory *such offence.*
 for *three hours*. If the Constable neglects his
 duty, he is to forfeit *forty shillings* for every de-
 fault; the forfeitures to be levied by warrant,
 by distress, &c. *Same statute.*

Persons having no visible estate, and not
 making it appear that the principal part of
 their maintenance, are not by other means than
 gaming, are to be bound to their good beha-
 viour, being carried by a Constable before a
 Justice. *Same statute.*

By *stat. 5 Hen. 4*, when a Constable, &c. *Felon*
 carries a *felon* to gaol, the gaoler is obliged to *brought by a*
 receive him; if he refuses, the Constable may *Constable to*
 secure his prisoner in his own house, or carry *a gaol, gaol-*
 him to the place where apprehended, and the *er to take*
 town must keep him till the next *gaol delivery*; *charge of*
 when the gaoler will be punished for such neg- *him, or lia-*
 lect and refusal. *ble to be pu-*
nished.

By *stat. 3 James*, the Constable, by warrant
 from a Justice, may sell offenders goods, to de- *Felons goods*
 fray the charges of carrying him to gaol, being *to be sold by*
 first appraised by some of the inhabitants; if *Constable to*
 offender hath no goods and chattels, then the *pay charge*
 town where he was apprehended must pay the *of carrying*
 charges, and the Constable, with the two *him to gaol.*
 church

church wardens, and two inhabitants, may impose a tax for that purpose, and after allowed, may distrain for the same.

To levy for repairing gaols.

By *stat. 11 and 12 Will. 3*, Constables are to levy the money for repairing gaols, by warrant from a Justice of Peace.

To search for gunpowder.

By *stat. 5 Geo. 2*, Constables may by warrant search for gunpowder, and if found a greater quantity than allowed by law, they may remove the same.

Penalty on obstructing him.

Any person obstructing the search or removal, to forfeit *five pounds*. *Same statute.*

No powder to be put on board ships above Blackwall, &c.

No powder to be put on board ships above *Blackwall*, nor guns kept loaded, or fired before the rising or after the setting of the sun, under the penalty of *five pounds*; to be levied by the Constable by warrant. *Same statute.*

To put aw against hawkers in force.

By *stat. 9 and 10 Will. 3*, and *16 Geo. 2*, Constables, &c. are not to refuse to put the laws against hawkers in execution, under the penalty of *forty shillings*.

To assist in driving off commons, forests, &c. horses, &c.

By *stat. 32 Hen. 8*, they are to assist at *Michaelmas*, or within *fifteen days* after, in driving off commons, forests, &c. horses and other cattle, on pain of *forty shillings*.

To make hue and cry after felon. If they neglect they may be indicted.

By *stat. 27 Eliz.* they are to make *hue and cry* after a felon who hath escaped.

If they neglect so to do, they may be indicted or sued. *Same statute.*

To levy a tax to answer an execution or recovery against the hundred.

By *stat. 8 Geo. 2*, when an offender is taken on *hue and cry*, the Constable shall levy a tax to answer an execution, or recovery against the *hundred*, and pay the same to the Sheriff. If he neglects to make such *hue and cry*, he shall forfeit *five pounds*.

To deliver lists to the Justices, of proper per-

By *stat. 7 and 8 Will. 3*, in *Michaelmas* sessions yearly, Constables, &c. are to give into the Justices, a list of the names and places of abode of the inhabitants within their respective precincts; of all persons qualified to serve as jurors

jurors between the age of *twenty-one* and *seventy*, and the Sheriff is to impanel no others, &c. *Same statute.*

By *stat. 3 Geo. 2.*, if Constables, &c. neglect *Forfeitures to return lists as aforefaid, they are liable to on Constables* forfeit 3s. or if they wilfully omit persons qualified, or insert wrong persons, they are liable *for neglect.* to forfeit 20s.

They must subscribe and attest their lists *on oath* before one or more Justices, and deliver *Lists delivered in to be on oath.* them to the *High Constable.* *Same statute.*

By *stat. 5 Eliz. cap. 14.*, they may in *hay* and *corn harvest time*, set artificers and ordinary tradesmen on work by the day, and if they refuse so to do, they may set them in the stocks for the space of *two days and one night.* If the Constable neglects his duty he forfeits 40s. *To set artificers to work in hay and corn harvest time.*

By *stat. 17 Geo. 2.*, Constables, &c. are to levy the forfeitures for destroying lands, viz. 40s. for the *first offence*, 50s. for the *second offence*, and 3l. for the *third offence*, by warrant of a Justice, on the goods and chattels of the offenders; and for want thereof, they are to be committed to the house of correction for any time not exceeding *three months.* *To levy the penalties for destroying lands.*

By *stat. 2 Geo. 3.*, they are to provide such carriages and men for the use of the militia, as the act requires; and on neglect to forfeit 40s. or not less than 20s. to the use of the poor. *To provide carriages and men for the militia.*

By *stat. 7 James*, they are to put the laws in execution against *Popish recusants*; and are to complain to a Justice, of persons suspected of *recusancy*; and the Justice, on their refusal of taking the oaths, may commit them till the next *Affizes or Sessions.* *To enforce laws against Popish recusants.*

By *stat. 3 James*, Constables, &c. are to present once a year to the Quarter Sessions, those who absent themselves from church for *those who absent themselves from the church.*

the space of *one month*; and the names of their children above *nine years* of age, living with them, and such servants as they have.

On neglect
to forfeit
20s. and re-
cusants 20l.

If they neglect so to do, to forfeit 20s. for every default; and *Popish recusants* to forfeit 20l. for every month they absent themselves from church. *Same statute.*

To present
at Quarter
Sessions on
oath, mat-
ters against
the peace.

They are to make presentments on *oath* at the Quarter Sessions and the Assizes, of all things within their knowledge against the peace.

Penalties
against pro-
fane swear-
ing.

They are to put the act in force, enjoining penalties for profane swearing; and on neglect to perform this duty, to forfeit 40s.

Penalties
on master tay-
lors for pay-
ing greater
than law-
ful wages.

By *stat. 7 Geo. 2*, they are to levy the penalty on master taylors of 5l. for paying greater wages than the statute allows; and also for not paying their journeymen lawful wages, by distress, &c. by warrant from a Justice.

To execute
the warrants
of commis-
sioners of
turnpikes,
and levy on
persons as-
saulting col-
lectors, &c.

By *stat. 8 Geo. 2*, they are to execute the warrants of commissioners of turnpikes, under the penalty of 5l. and by Justice's warrant, to levy the forfeitures on persons assaulting collectors, or passing through turnpike gates without paying the toll appointed.

To call as-
sistance to
preserve
ships from
wreck.

By *stat. 12 Anne*, they are to call assistance by order of the Justices, to endeavour to preserve ships in danger of a wreck near the *sea coasts*, under the penalty of 100l.

Not to dis-
pute a Jus-
tice's war-
rant within
their juris-
diction, but
otherwise if
out of it.

By *stat. 14 Hen. 8*, they are not to dispute a Justice's warrant, but to execute the same with all convenient speed. If the Justice exceeds his authority, the Constable is excused; but if the Justice issues a warrant, to be executed out of his jurisdiction, where he hath no authority, and he not a proper judge, the Constable will be punished if he executes it.

Officers of
excise to
have Constable

By *stat. 12 Car. 2, cap. 23 and 24*, officers of excise, called *gagers*, are to have the Constable with them when they enter by night into the houses of any brewer, inn-keeper, victual-
ler

ler, &c. to gage their coppers, fats, or vessels; or to take an account of their beer, ale, worts, perry, cyder, strong waters, matheglin, mead, coffee, chocolate, and sherbet, brewed, made, or distilled in the said houses. *bles to attend them in their night duty.*

Persons convicted of any offence within this act, the Constable, on warrant, is to levy the penalties on the offender, by distress and sale of his goods, rendering to him the *overplus* (if any) and for want of sufficient distress, they are to carry the party to gaol; there to remain till satisfaction made. *Constable to levy the penalties by distress, &c. for want thereof to carry party to gaol. Same statute.*

By *stat. 27 Eliz. cap. 13*, in case of a robbery, where damages are recovered against one or some few inhabitants of the *Hundred*, and the rest refuse to contribute thereunto, in such case two Justices of the Peace, one of the *quorum* dwelling within, or near the *Hundred*, may for the levying thereof, set a tax upon every parish within that *Hundred*; according to which the Constables and Headboroughs of every town must tax the particular inhabitants within their constableries, and levy the money upon such as refuse, by distress and sale of their goods, restoring them the *overplus*, and after the money is gathered, they are to deliver the same to the Justices, or some of them that made the rate, within *ten days*. *Of making the Hundred contribute, in cases of robbery.*

The *Hundred* where fresh suit shall cease, shall answer half the damages to the *Hundred* where the felony was committed, to be recovered in any court at *Westminster*, in the name of the clerk of the peace of the county where the felony was committed; and here the death or change of the clerk of the peace shall not abate the suit; to be taxed and levied as aforesaid. *Hundred where fresh suit ceased to answer half the damages. Same statute.*

Nota, That the *Hundred* is not chargeable for the robbery, when any one of the malefactors shall be apprehended, or when the action

is not prosecuted within *one year* after the robbery committed; and *note also*, that the *bue and cry* shall not be deemed legal, unless the pursuit be both by horse and foot. *Bract. lib. 3. fol. 121.*

*Penalty for
not making
hue and cry
after a felon.*

By *stat. 8 Geo. 2*, the *Constable, Horsholder, Headborough, &c.* to whom notice is given, or at whose dwelling-house notice of any robbery is left; and every *Constable* of the *Hundred, &c.* of any town, parish, village, hamlet or tithing within the *Hundred*, or within the precinct thereof, wherein a robbery happens, as soon as the same comes to his knowledge, either by notice from the party robbed, or from any other person to whom notice was given thereof, are with the utmost expedition to make, and cause to be made, fresh suit and *bue and cry* after the *felon* or *felons* by whom the robbery was committed; and if any *Constable* offend, by refusing or neglecting, he forfeits *5l.* by action; half to the king, and half to him that will sue.

*Constable's
duty as to
electing sur-
veyors of the
highway.*

By *stat. 13 Geo. 2*, on the *22d of September* in every year (unless that day be *Sunday*, and then on the *23d*) the *Constables, Headboroughs, Tythingmen, Church Wardens, Surveyors of the Highways*, and *Hausholders* assessed to any parochial or public rate, shall assemble at the church or chapel, or if no such church or chapel, then at the usual place of public meetings in every parish, township, or place, at *eleven* in the *forenoon*; and the major part of them shall make a list of *ten persons* at the least, living within such parish, township, or place, who have each of them an estate, in lands, tenements, or hereditaments, of *10l. per annum*, or personal estate of the value of *100l.* or who occupy houses, lands, tenements, or hereditaments, of *30l. per annum*; and if there shall not be *ten persons* so qualified, they shall insert the names of so many as are qualified; and the

defi-

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deficiency shall be supplied from the most sufficient inhabitants resident there, for the purpose of serving the office of surveyor of the highways. *Same statute.*

The Constable, Headborough, or Tythingman, shall, within *three days* after such meeting, transmit a copy of such list to one of the Justices of the limit where such place shall lie, living in or near the same; and shall also deliver the original list to the Justices at their Special Sessions to be held for the highways, in the week next after the *Michaelmas* General Quarter Sessions of the Peace in every year. The Constable is to give notice of holding the Sessions, and of their appointment, to the persons elected surveyors, and shall, within *three days* after making the said list, give personal or written notices to the persons contained therein, that they may appear before the Justices, and shew cause, if they have any, against their being appointed. And the Justices shall hold such Special Sessions at such convenient places as they shall judge proper, and give *ten days* notice of the time and place of holding the same, to the Constables, Headboroughs, or Tythingmen of every such parish or place. And the Justices at such Sessions shall, from the said lists, appoint one, two, or more of such persons surveyors, if they shall think them qualified for the office; if not, one, two, or more of the other substantial inhabitants, or occupiers of lands, tenements, woods, tythes, or hereditaments, within such parish or place, living within *three miles* thereof, and in the same county, proper to serve the office of surveyor, if any such can be found; of which appointment the Constable, &c. shall give notice to the persons so appointed, within *three days* after such appointment. *Same statute.*

Constable to transmit list within 3 days after meeting, to Justices, &c.

Constable to give notice to persons appointed surveyors within 3 days.

Constable to give an account to Justices if required, of the amount of assessment.

Constables, &c. if required by the Justices, are to return an account in writing, of the sum which the assessment of *sixpence per pound*, for the use of the highways, will raise, under *forty shillings* penalty for neglecting or refusing to make or retain such lists, or not giving proper notice or notices, and serving such warrant or warrants, as in this act are directed.

Penalty for resisting the execution of this act, and for Constables, Headboroughs, or Tythingmen, who refuse to execute any warrant granted pursuant to the directions thereof.

In case any person shall resist, or make forcible opposition against any person employed in the due execution of this act, or make rescue of the cattle, or other goods distrained; or if any Constable, Headborough, or Tythingman, shall refuse to execute any warrant granted by any Justice pursuant to the directions of the act; such person offending therein, and being thereof convicted by a Justice, shall, for every offence, forfeit not exceeding *ten pounds*, nor less than *forty shillings*, at the discretion of the Justice before whom he shall be so convicted; to be paid to the surveyor of the highways for the parish or place where the offence was committed, to be laid out in the repair of the highways: And in case he do not forthwith pay, or secure to be paid, the said forfeiture after conviction; then such Justice may commit such person to the common gaol or house of correction of the limit where such offence shall be committed, for any time not exceeding *three months*, unless the said forfeiture shall be sooner paid. *Same stat.*

Penalty on Constables, &c. refusing or neglecting to execute stat. 13 Geo. 2, cap. 84, for regulating turnpike roads.

Every Constable, Headborough, or Tythingman, refusing or neglecting to put the act into execution, or to account for, or deliver any forfeiture according to the directions of the act, shall, upon due information made on oath before a Justice for the limit, forfeit for every neglect *ten pounds*. Or if any Constable, Headborough, or Tythingman, shall refuse to execute any warrant granted by any Justice, pursu-

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purſuant to the directions of the act, he ſhall, for every offence, forfeit not exceeding *ten pounds*, nor leſs than *forty ſhillings*, at the diſcretion of the Juſtice before whom he ſhall be ſo convicted; and unleſs the forfeiture be forthwith paid, ſuch Juſtice may commit him to gaol, or the houſe of correction, for any time not exceeding *three months*, unleſs the penalty be ſooner paid. *Same ſtat.*

If any perſon ſhall, upon a turnpike road, drive any waggon, wain, cart or carriage, not being marked according to the directions of the act, or drawn by more than the number of horſes, or beaſts of draught, thereby authoriſed; it ſhall be lawful for any Conſtable, Headborough, Tythingman, or other perſon, to apprehend and take ſuch perſon ſo driving, as aforeſaid, before a Juſtice of the Peace for the limit where the offence ſhall be committed, and upon his conviction thereof, either by the confeſſion of the party, or by the oaths of credible witneſſes, before ſuch Juſtice, every perſon ſo offending, ſhall forfeit, for every offence, not exceeding *five pounds*, nor leſs than *ten ſhillings*, at the diſcretion of the Juſtice before whom ſuch offender ſhall be convicted. *Same ſtatute.*

In caſe the driver of any cart, car, dray, or waggon, ſhall ride upon any carriage in a ſtreet or highway, not having ſome other perſon on foot or on horſeback to guide the ſame (ſuch carriages as are conducted by ſome perſons holding the reins of the horſes drawing the ſame excepted); or if the driver of any carriage on any part of a ſtreet or highway, ſhall, by negligence or wilful miſbehaviour, cauſe any hurt or damage to any perſon or carriage paſſing or being on ſuch ſtreet or highway, or ſhall quit the highway and go on the other ſide of the hedge or fence incloſing the ſame; or wilfully be at ſuch a diſtance from ſuch carriage, or in ſuch a ſitua-

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a situation, whilst it shall be passing through such highway, that he cannot have the direction and government of the horses or cattle drawing the same; or shall by negligence or wilful misbehaviour, prevent, hinder, or interrupt the free passage of any other carriage, or of his Majesty's subjects, on the highways; or if the driver of an empty or unloaded waggon, cart or carriage, shall refuse to turn aside and make way for any coach, chariot, chaise, loaded waggon, wain, or loaded carriage; or if any person shall drive any such coach, post-chaise, or carriage let for hire, or waggon, wain, or cart, not having the owner's name, as required, painted thereon; or shall refuse to discover the true christian and surname of the owner of such carriage; every driver so offending in any of the cases aforesaid, and being convicted of such offence either by his confession, the view of a Justice, or by the oath of credible witnesses, before any Justice of the limit where the offence was committed, shall, for every offence, forfeit not exceeding *ten shillings*, in case such driver shall not be the owner of such carriage; and in case the offender be the owner of such carriage, then a sum not exceeding *twenty shillings*; and in either of the said cases, he shall, in default of payment, be committed to the house of correction for any time not exceeding *one month*, unless such penalty shall be sooner paid; and every such driver offending in either of the said cases, may, *with or without any warrant*, be apprehended by any person who shall see such offence committed, and shall be immediately delivered to a Constable or Peace officer, in order to be conveyed before *some* Justice, to be dealt with according to law; and if such driver, in any of the cases aforesaid, shall refuse to discover his name, the Justice before whom he shall

shall be taken, or to whom such complaint shall be made, may commit him to the house of correction for any time not exceeding *three months*, or proceed against him for the penalty aforesaid, by a description of his person and the offence, and expressing in his proceeding that the offender refused to discover his name. *Same statute.*

By this act, which is yearly, the *Constable*, The duty of a Constable, &c. in bil- and in his default a *Justice of the Peace*, may letting and quartering soldiers quarter soldiers in *inns, livery-stables, ale-houses,* and the *houses of sellers of wine by retail*, to be drunk in their own houses, or places thereunto belonging (other than persons who keep *taverns* only, being free of the Vintner's Company in *London*) and all *houses of persons selling brandy, strong waters, cyder, or matheglin, by retail*, to be drunk in their own houses (other than the houses of *distillers*, who keep places of distilling brandy and strong waters) and no other, and in no private houses whatever; nor shall any more billets be ordered than there are effective soldiers; and if any Constable, &c. shall presume to quarter any officer or soldier in any private house, the occupier of such house shall have his remedy at law against such Constable, &c. for damages: And if any military officer shall take upon him to quarter soldiers, otherwise than by this act, or shall offer any menace to any Constable, &c. tending to deter any of them from doing their duty, he shall, on conviction before any two of the next Justices, by the oath of two witnesses, be cashiered and disabled to hold any military employment; provided that the conviction be affirmed at the next Quarter Sessions, and a certificate thereof be transmitted to the Judge Advocate, who shall certify the same to the next court martial. And any person aggrieved, by having Persons aggrieved to apply to a more soldiers than in proportion to his neighbourhood, on complaint thereof to one Justice of the

*Justice of
the Peace.*

the Peace, or if the person so billeting them be a Justice of the Peace, then on complaint to two Justices, they may relieve him.

No Justice, having any military command, shall be concerned in quartering soldiers under his immediate command.

*Punishment
for Constable
neglecting to
billet.*

If any Constable shall neglect his duty in billeting, for the space of *two hours*, provided sufficient notice hath been given him before of the arrival of the forces; or shall receive any reward to excuse any person; or if any person liable, shall refuse to receive soldiers as required by this act, and be thereof convicted before one Justice, by confession, or oath of one witness, he shall forfeit any sum not exceeding *five pounds* nor less than *forty shillings*, by distress, by warrant of such Justice, to be directed to any other Constable, or to any overseer of the poor where the offender shall dwell, for the use of the poor of such parish.

Any officer who shall take money for excusing the quartering of soldiers, shall be cashiered and incapacitated.

*Wives, &c.
not to be
quartered.*

No officer, civil or military, shall quarter any of the wives, children, men or maid servants of an officer or soldier, in any house, without the consent of the owner. If a military officer shall offend in this particular, he shall be cashiered; and, if a civil officer, he shall forfeit to the party aggrieved *twenty shillings*, by distress.

*Furnishing
officers and
soldiers with
diet and
small beers.*

Officers and soldiers, after they are billeted, shall be received and furnished with *diet* and *small beer*, paying for the same as hereafter mentioned.

*Furnishing
soldiers with
candles, &c.*

Any person, rather chusing to furnish them with *candles*, *vinegar*, and *salt*, and with either *small beer* or *cyder*, not exceeding *five pints* a day *gratis*, and allowing them the use of *fire*, and necessary utensils for dressing and eating their

their meat, and shall give notice thereof to the commanding officer, and shall furnish the same accordingly; in such case they shall provide their own victuals, except on a march or recruiting.

Where horse or dragoons shall be quartered, the men and their horses shall be billeted in the same house (except in case of necessity) and in all cases there shall be one man billeted where there are one or two horses, and not less than two men where there shall be four horses; and so in proportion.

Officers may exchange men or horses with others quartered in the same town, provided the numbers so exchanged are equal; and the Constable, &c. shall billet them accordingly.

Justices may command Constables, or other officers, to give an account in writing, of the number of soldiers billeted by them, and the names of the persons on whom they are billeted, and the signs, if any.

The officer who shall receive the pay or subsistence money, shall immediately, upon the receipt thereof, give public notice to all persons keeping inns, &c. where soldiers are quartered, to repair to their quarters, at such time as they shall appoint, for distribution thereof to the officers and soldiers, which shall be within four days after the receipt thereof; and the inn-keepers, &c. shall be first paid, before any part of the pay be distributed to officers or soldiers, provided that, for a commission officer of horse, under the degree of a captain, the accounts for diet and beer do not exceed two shillings a day; nor for a commission officer of dragoons, under the degree of a captain, one shilling; nor for a commission officer of foot, under the degree of a captain, one shilling, and for each horse sixpence: Nor for one light-horseman's diet, and hay and straw for his horse,

horse, *one shilling*; for one dragoon's diet, and hay and straw for his horse, *one shilling*; nor for one foot soldier's diet *four pence*. And if any officer shall not give such notice, and pay as before-mentioned, the pay-master shall pay the same out of the said officer's arrears, on pain of forfeiting his office, and disability; and if no such are due, the pay-master shall deduct the sums to be paid out of the next pay of the regiment; and such officer shall be cashiered.

The duty of a Constable, &c. in impressing soldiers and seamen in time of war. Commissioners empowered to levy such men as are herein described;

and to call in the assistance of parish and town officers;

and to meet in their subdivisions,

and issue general search warrants, for bringing

By *stat. 19 Geo. 3, cap. 10*, Commissioners appointed by this act, or any three or more of them, in their respective places or stations, shall be, and are authorized and empowered to raise and levy, at any time or times, during the continuance of this act, within their several limits and jurisdictions, all able-bodied idle and disorderly persons, who cannot upon examination prove themselves to exercise and industriously follow some lawful trade or employment, or to have some subsistence sufficient for their support and maintenance, to serve his Majesty as soldiers; and to require and command all and every the *High Constables, Church Wardens, Overseers of the Poor, Petty Constables, Headboroughs, and Tythingmen*, and other parish and town officers, or any of them, within their respective limits and jurisdictions, to be aiding and assisting to them the said Commissioners, or any three or more of them, in the performance of this his Majesty's service; and for that purpose, the said Commissioners, or any three or more of them, are to meet in their respective subdivisions, and to issue out their warrants under their hands and seals, thereby requiring and commanding such *Church Wardens, Overseers of the Poor, Petty Constables, Headboroughs, Tythingmen*, or other parish or town officers; or else requiring and commanding the said

High

High Constables to issue their precepts to such *before them*
Church Wardens, Overseers, Petty Constables, *at their se-*
Headboroughs, and Tythingmen, and other parish *cond subdivi-*
 and town officers as aforesaid, or any of them, *vision meet-*
 to make a general search within their respective *ing, all per-*
 parishes, townships, constablewicks, or other *sons within*
 places, for all such persons as they can find, *the descrip-*
 who are, or shall appear to them to be within *tion of this*
 the description of this act, and to bring all *act.*
 such persons before the Commissioners who
 have power to execute this act in and for such
 county, shire, stewartry, riding, division, or
 place, at such time and place as shall have been
 appointed by the Justices and Commissioners
 as aforesaid, for the second meeting of the said
 Commissioners in their respective subdivisions,
 (which time and place shall be prefixed in the
 said warrants and precepts respectively) and
 afterwards, the said Commissioners, within *Subsequent*
 their respective limits and divisions, shall meet *meetings to*
 at such convenient time or times as they shall *be at such*
 think fit, in order to issue their like warrants *times as*
 or precepts for making general searches for *places as*
 persons within the said description, and for *shall be*
 bringing them before the Commissioners, at any *thought fit.*
 future times and places appointed by the
 Justices and Commissioners as aforesaid.

The said Commissioners, or any three or *Persons guilt-*
 more of them, shall be hereby authorised and *ty of running*
 empowered to raise and levy, to serve his Ma- *goods,*
 jesty as a soldier, all able-bodied persons who *and convict-*
 shall be guilty of *illegal landing, running, un-* *ed in a pe-*
shipping, concealing, receiving, or carrying, pro- *nalty not ex-*
hibited goods, wares, or merchandises, or any *ceeding 40l.*
foreign goods liable to the payment of the duties *may be list-*
 of customs or excise, the same duties not ha- *ed as sol-*
 ving been paid or secured, or of aiding or *diers, in lieu*
 assisting therein, and shall be thereof convicted, *of all legal*
 before one or more of his Majesty's Justices of *penalties.*
 the Peace for the county or place where the
 F offence

offence was committed, in any penalty not exceeding *forty pounds*, in lieu of such penalty, or any punishment to which such person may be liable by any law now in force.

Bailiff's followers, &c. not deemed to exercise any employment.

No bailiff's follower or assistant, employed or belonging to any sheriff, bailiff of liberties, &c. shall be deemed thereby to follow or exercise any calling or employment, or to have a sufficient support and maintenance, within the intent and meaning of this act.

Persons convicted of leaving their families chargeable on the parish, may be inlisted by the Justices, &c.

And whereas by an act of the *seventeenth George the Second*, (intituled, An act to amend and make more effectual the laws relating to rogues, vagabonds, and other idle and disorderly persons, and to houses of correction), the Justices in Sessions are required to adjudge all persons, convicted of leaving their families chargeable upon the parish, incorrigible rogues, and to adjudge them to suffer the punishments allotted under the said act to incorrigible rogues; the said Justices in Session shall be empowered, instead of the said punishments allotted to such persons convicted of running away from and leaving their families chargeable upon the parish as aforesaid, to inlist the said persons, and to deliver them to some officer empowered to receive recruits under this act; and such persons shall have the articles of war read to them, and shall be deemed inlisted to all intents and purposes whatsoever, provided that such person do not lie under any disqualification of sickness or inability; and the said officer shall, upon receipt of every such person so convicted, pay to the said Justices, for the use of the Overseers of the poor of the parish upon which the said person shall have left his family chargeable, the sum of *forty shillings*.

Officers receiving any such person to pay 40s. to the Overseers.

Justices on information, &c. where

Any Justice or Justices of the Peace may, upon his or their own knowledge, or information upon oath, where any able-bodied men are

are to be found, issue a warrant to the Constable, or other parish or town officer, or to any other person or persons, for apprehending such men; and the Constable, or other parish or town officer, &c. upon the receipt of such warrant, is hereby required to apprehend such men; and such men shall be secured and inlisted in the manner herein directed, in relation to other persons apprehended in pursuance of this act: And where any man shall be apprehended and inlisted in consequence of such information as aforesaid, the whole of the *twenty shillings*, by this act directed to be paid by the officer to whom such man shall be delivered in pursuance of this act, shall be paid to the informer or informers.

No person shall be so inlisted, who is not such an able-bodied man as is fit to serve his Majesty, and is free from ruptures, and every other distemper, or bodily weakness or infirmity, which may render him unfit to perform the duty of a soldier; and that no man be inlisted for his Majesty's service by virtue of this act, who shall appear, in the opinion of the Commissioners, &c. to be under the age of *sixteen years*, or above the age of *fifty*, or who, being under the age of *eighteen years*, shall be under the size of *five feet three inches*, without shoes.

Not to extend to the impressing any person to serve as a soldier or as a seaman, who shall make it appear, that he hath any vote in the election of any member or members to serve in Parliament, for any county, city, borough, &c. in the kingdom of Great Britain.

Church Wardens and Overseers of the Poor, Constables, Headboroughs, Tythingmen, and other officers, of any parish or township, or any of them, at any time after the second meeting of the Commissioners, having a proper warrant or precept as aforesaid, to search for and apprehend

*and secure
such persons
as come
within the
description
of this act,
and convey
them before
a Justice;*

*who may
commit them
till the next
meeting of
the Commis-
sioners, &c.*

*Inhabitants
required to
be assisting
herein.*

*10s pre-
mium to such
as shall dis-
cover any
proper per-*

hend all such persons as they, or any of them, shall find, or shall appear to them to be within the description of this act, and to secure such persons (in case they shall think it necessary) in the gaol or house of correction, or other proper place of security, where such persons shall be apprehended, and with all convenient speed to bring them before one or more of the Justices of the Peace of the place within which they shall have been so apprehended, to be examined; and if the Justice or Justices shall judge the persons so brought before him or them, to be within the description of this act, they shall commit such persons as aforesaid, (in case they think it necessary); and the keeper of such gaol or other place of security, as aforesaid, shall receive such persons without fee or reward, and the parish officers shall allow such keeper, out of the poor's rate of the parish where such persons shall be apprehended, *sixpence by the day*, for each person, during the time they shall remain there, or shall convey them before the Commissioners, at their next meeting for listing of soldiers, to be examined, and (if adjudged by the Commissioners to be within the description of this act) to be listed and delivered into his Majesty's service.

The inhabitants of every parish, &c. where any persons described as aforesaid, abide or are to be found, (at the instance of any one or more of the Commissioners, or of any *Church Warden, Overseer of the Poor, or Constable*, of the same parish or township), shall (not having a lawful or reasonable cause to the contrary) be aiding and assisting in the furtherance of his Majesty's service as aforesaid.

If any person shall discover and give information of any able-bodied man, fit to serve his Majesty, so that he shall be apprehended and inlisted before the Commissioners as aforesaid.

said, such person, for every man so discovered ^{son so as to} and inlisted, shall receive, from the officer to ^{be inlisted.} whom such man shall be delivered, the sum of *ten shillings* out of the *twenty shillings* which he is elsewhere directed to pay to the officers of the parish or town, for every man impressed by virtue of this act; and the remainder only of such *twenty shillings* shall, in that case, be paid to such officers.

Persons obstructing the execution of this act to forfeit *ten pounds*, which may be levied by distress.

Commissioners to examine the persons brought before them, &c. and if found proper for the service, to deliver them to the military officers.

If it shall at any time appear to the officer, ^{How officer} under whose command such impressed men shall ^{is to proceed} be, that they are more proper for his Majesty's ^{when im-} service by sea than by land, then it shall be ^{pressed men} lawful for such officer to carry such men before ^{shall be} any three of the Commissioners; and if such ^{found more} Commissioners shall judge them to be more ^{proper for} proper for his Majesty's service by sea than by ^{the sea ser-} land, then it shall be lawful for such officer to ^{vice than the} cause such men to be delivered over to any commission officer of his Majesty's fleet, to be appointed for entering such persons to serve as common sailors in the said fleet; such officer giving a receipt under his hand, acknowledging what men are so delivered to him, (which receipt he is hereby required to give) and also repaying to the land officer the expences incurred by him on account of the said impressed men.

Commissioners present at the delivering over any recruit, may upon demand made in his behalf, appoint a further meeting; and finding him not to be within the description of this act, are to certify the same to the Secretary at War, who shall cause the man to be discharged. And the officer is to pay him *one shilling for each day* he shall have been detained.

*Officers may
secure im-
pressed men.*

The officer or other person appointed to attend the said Commissioners, and to receive such impressed men, shall, in case he or they shall find it necessary, detain such impressed men in some secure house or place, to be provided by the Justices of the Peace, in their petty or special sessions, for that purpose; but if no such house or place shall be provided, then in the gaol of the county, or place where such men shall be received into his Majesty's service, or in the house of correction, or other public prison, of such county or place; and the keeper of such gaol, or prison, shall receive such impressed men until they can be removed, without fee or reward; and such keeper shall be allowed the usual subsistence for such men, during the time they remain there, from the officer by whom they shall be delivered as aforesaid; and the *Constables, Headboroughs*, and other civil officers, shall, if required, be assisting to such officer in conveying such man or men to such gaol, or house of correction, and shall be allowed such reasonable sum or sums as the major part of the Commissioners then present shall appoint, to be paid by the officer or officers who shall require such assistance.

*Keeper to be
allowed their
subsistence
money.*

*Civil Of-
ficers to be
aiding in se-
curing them,
and to be al-
lowed for
their trouble.*

*Officers not
attending to
receive re-
cruits, com-
missioners
may ad-
journ, and
order the de-
tention of the
impressed
men.*

If at any of the meetings of the Commissioners by this act appointed, in any of their subdivisions, they shall not be attended by some proper officer appointed for the receiving of recruits, either through negligence or any unavoidable accident; then it shall be lawful for the said Commissioners to adjourn themselves to some other convenient day, and they are hereby authorised to give directions for detaining in custody all such persons as shall have been then brought before them by the parish officers to be inlisted, or such of them as they shall think duly qualified for his Majesty's service; and the said Commissioners shall give notice to
any

*Notice of
adjournment*

any of the officers attending on this service, in the county or place where such subdivisions shall be, of the day of such adjournment; and the said officer is hereby required, either to attend himself, or appoint some other person to attend such Commissioners, and to receive such persons as the said Commissioners shall inlist into his Majesty's service; and the officers for receiving the said recruits shall pay, to such person as the said Commissioners shall appoint, *fix-pence per diem* for the subsistence of every recruit then inlisted, from the day of the last meeting of the Commissioners to the said day of adjournment; the same to be charged to the account of the several regiments or companies into which the said recruits shall be inlisted, together with such charges and expenses as shall appear to have been incurred, on account of the detaining the said persons, from the day of the former meeting of the said Commissioners to the day of such second meeting, not exceeding *three pounds*.

If any person, being judged by the Commissioners not to be within the description of this act, shall be by them discharged, the officers of the parish or town shall be intitled to no consideration for their expences in keeping such person; and if any person, being judged by the Commissioners to be within the description of this act, shall be rejected by the military officer, such officer shall pay to the officers of the parish or town *sixpence per diem*, for the whole time that they shall have kept such person, to be charged to the account of his respective regiment or company; and every officer who shall object to any person delivered to him by the Commissioners, shall specify his objection to such person, whether it be to his age or size, or bodily disability, and the grounds of such objection shall be forthwith inquired

to be given to officers attending this service, &c.

Officer to pay subsistence money for every recruit,

and incidental charges.

Persons discharged as not within the description of this act, parish not to be allowed their expences: If within the description and rejected by officer, he shall pay the expences of keeping them.

Objections to be specified, and inquired

into by Commissioners.

Reasons of discharge to be transmitted to the Secretary at War, &c.

New raised men to receive pay from the time of their being secured; and not liable to arrests for debt.

Rewards for commissioners clerks.

inquired into by the said Commissioners, and they shall proceed accordingly; and every officer who shall refuse, or discharge any person delivered to him by the Commissioners, as fit to serve his Majesty within the description of this act, shall, without delay, if a land officer, transmit to his Majesty's Secretary at War, or, if a marine officer, to the Secretary of the Admiralty, his reasons for such refusal or discharge, in writing, signed by himself.

The pay of every new raised man shall commence from the time of his being taken and secured as aforesaid; and no person, so enlisted or entered in pursuance of this act, shall be liable to be taken out of his Majesty's service by any process, other than for some criminal matter.

Commissioners may levy a fine, not exceeding *ten pounds*, on gaoler, for escape of men, and on parish officers for neglect of duty.

The Commissioners are to cause to be read the *second* and *sixth* sections of the articles of war, to new-raised men, &c.

Commissioners are also to certify that they are enlisted, and that the *second* and *sixth* sections of the articles of war were read to them; and the names of the men, parish, &c. to be entered in a book.

Attested copy thereof to be transmitted, within *forty days*, to the Admiralty, on penalty of *ten pounds*, one moiety to his Majesty, and the other to the informer.

The several clerks to the said Commissioners, provided the said copies or duplicates be truly transmitted into the office of the Admiralty, or Secretary at War, as aforesaid, shall receive, by the hands of the paymaster of his Majesty's land forces and marines, or one of them, such rewards as the Lord High Treasurer, or Commissioners of the Treasury for the time being, upon

upon consideration of the numbers of men listed in the several counties, cities, boroughs, or other places, and the pains and charges of the several clerks in this service, shall judge the said clerks severally and respectively to deserve.

The several officers who shall receive impressed men raised in the manner herein before mentioned, shall pay to the clerk appointed by the Commissioners, for the use of the officers of the parish or town so employed in raising such men, for their pains and services therein, *Officers to pay to the parish officers, for their trouble, 20s. for every such man;* twenty shillings of lawful money of Great Britain, for every man so impressed; and shall also pay, *and to the Churchwardens, &c. from 10s. to 40s. if such man have a wife or family;* for every such man who shall have a wife or family, any sum not exceeding forty shillings, nor less than ten shillings, of lawful money of Great Britain, to the said clerk, to be by him paid over into the hands of the church wardens or overseers of the poor, for the benefit of such parish or township in which such man shall have gained a settlement, and whose wife or family may become chargeable to such parish or township respectively; which sum shall be settled by the Commissioners present at the meeting when such person shall be enlisted or entered, or any three or more of them, regard being had to the number of children, or other particular circumstances of such person *as shall be settled by the commissioners;* so enlisted; for both which payments the clerk shall give a receipt; and the sum of *sixpence and 6d. per diem* for keeping every such man who shall be so delivered as aforesaid, according to the number of days that the officers of the said parish or town shall have kept him in custody, *parish officers for the time they shall have kept him.* until such delivery; the said allowances of *twenty shillings, and of sixpence per diem,* in case of dispute, to be ascertained and distributed to or among the said Church Wardens, *Disputes relating thereto to be settled by the* Overseers, Constables, Headboroughs, Tythingmen, *and*

commission-
ers.

and such other parish and town officers, or any of them, according to the judgment and discretion of the said Commissioners, or the major part of them then present.

Commission-
ers may al-
lot, out of the
money allow-
ed to the
parish of-
ficers, 2s. to
High Con-
stable.

The said Commissioners, or any three or more of them, in their respective divisions, are hereby authorised and empowered, out of the said sum of *twenty shillings*, herein before directed to be paid for the use of the officers of the parish or town so employed in the raising of such men, to order such sum as they shall think fit to the respective *High Constables*, within their respective limits and jurisdictions, for their pains and service in the execution of this act, not exceeding *two shillings*.

Impressed
men, after 5
years ser-
vice, to be
discharged,
if they de-
mand it.

Every person who shall be so impressed in pursuance of this act, after he shall have continued in the military service of his Majesty during the space of *five years*, shall be at liberty to demand his discharge from the colonel, or, in his absence, the officer commanding the regiment or company to which he shall belong, unless the nation shall be then engaged in a war, and in that case such person shall remain in service during the continuance of the war; and such discharge shall be granted to him *gratis*, in writing, under the hand of such colonel or officer, who is duly empowered and required to give the same accordingly.

No soldier or marine to be discharged without a certificate from his colonel.

Officers discharging new raised men contrary to this act, or permitting them to avoid actual service, shall be cashiered.

Persons em-
ployed in the
execution of
this act, ex-
cept, *Church Warden, Over-
seer, Constable, Headborough, Tythingman*, or other parish or town officer, who shall be employed in the execution of this act, shall be liable.

liable, for or by reason of such execution, to any of the penalties mentioned in an act, made in the *twenty-fifth Charles the Second*, for preventing dangers which may happen from Popish recusants; or in one other act, made in the *first William and Mary*, intituled, *An Act for abrogating the oaths of allegiance and supremacy, and appointing other oaths*; or in one other act, made in the Parliament holden in the *thirteenth and fourteenth William the Third*, intituled, *An Act for the further security of his Majesty's person, and the succession of the crown in the Protestant line; and for the extinguishing the hopes of the pretended Prince of Wales, and all other Pretenders, and their open and secret abettors.*

If any action, plaint, suit, or information, shall be commenced against any person for what he shall do in pursuance or execution of this act, the same shall be commenced within *six months* after the offence committed, and shall be brought in the county or place where the fact was committed, and not afterwards or elsewhere; and such person sued, in any court whatsoever, shall and may plead the *general issue not guilty*, and upon any issue joined may give this act and the special matter in evidence; and if the plaintiff or prosecutor shall become *nonsuit*, or forbear further prosecution, or suffer a discontinuance, or if a verdict or judgement upon demurrer pass against him, the defendant shall recover *treble costs*, for which he shall have the like remedy as in any case where costs by the law are given to defendants.

Stat. 24 Geo. 2, so far as it relates to Justices, is extended to Justices and Commissioners acting under authority of this act.

No action is commenced, &c. for any thing done in execution of this act, till notice in writing shall be given to the party.

De-

THE COMPLEAT CONSTABLE.

Defendant may tender amends for injury complained of, and plead the same in bar, &c.

No action is to be brought in *Scotland*, on account of executing this act, till notice has been given to the party offending, who may tender amends, &c.

Where the defendant had probable cause for doing the action complained of, the plaintiff is not intitled to damages or costs.

If the cause of action was not maliciously committed, he shall have double costs.

His Majesty, when a sufficient number of men shall be raised, may, by proclamation, &c. suspend the execution of this act; or may suspend or enforce it in any county or place.

Chief magistrates of cities, &c. upon notice from the Secretary at War, to enforce this act within their jurisdictions.

The Mayor or other chief magistrate of any city, town, or place, shall, upon receiving notice for that purpose from the Secretary of War, immediately proceed to put this act in execution, within their respective jurisdictions, in the same manner, to all intents and purposes, as if such Mayor or other chief magistrate had received such notice from the Sheriff of the county in which such city, town, or place, shall be respectively situate.

Labourers having proper certificates, not liable to be impressed from May 25 to Oct. 25.

That from and after the 25th of May, 1779, until the 25th of October following, no harvest labourer, or person working at hay harvest or corn harvest work, within the time aforesaid, within the kingdom of Great Britain, shall be impressed by virtue of this act, but shall be free and exempted from the same, during the time aforesaid, provided they have a certificate, under the hands of the minister, and of one church warden, or overseer of the poor, or elders, of the parish or place where they live, allowed under the hand and seal of one Justice of the Peace of the same county, shire, or place.

Any

Any three more Commissioners for putting this act in execution, in the several ridings of the county of *York* (being Justices of the Peace, though not all of the same riding) may, within the castle of *York*, or limits thereof, execute the powers of this act. Commissioners for executing this act within the castle of York.

The Commissioners hereby appointed for the county of *Chester*, and the officers of the said town of *Cuddington*, shall execute this act in the said place called *Tbreapwood*, according to the true intent and meaning thereof. The same for Tbreapwood.

Nota, The reader will observe, the above abstracted act is only temporary, in case of war or invasion; yet as it imposes a particular duty on Constables, &c. it seems necessary to be known.

Constables were first instituted for the better preservation of the peace: They may, by the common law, arrest felons, and all suspicious persons that go abroad in the night and sleep by day, or resort to bawdy-houses, or keep suspicious company. *2 Hawk. P. C. 61, 62.* Why Constables were first created.

By the ancient common law, the Constable was to present at the *Torn* or *Lect*, all those within his precinct who were not admitted into some tithing, and who had not sworn to the king's allegiance; and it seems, that by the law in use at this day, he ought to present all offences inquirable in the *Torn* or *Lect*. Their power to seize persons without warrants.

1 Bac. Abr. 441.

He is not only empowered, as all private persons are, to part an affray in his presence, but is bound at his peril to endeavour it, not only by doing his utmost himself, but also by demanding the assistance of others, which they are bound to give him, under pain of fine and imprisonment. *1 Bac. Abr. 441.* Bound by his office to part an affray.

If he see persons actually engaged in an affray, whether the violence were done, or offered to another, or even to himself, or see them upon the very point of entering upon an

affray, as where one threatens to beat another, &c. he may either carry the offender before a Justice of Peace, in order to his finding sureties for the peace, &c. or may imprison him himself a reasonable time, till the heat be over, and afterwards detain him till he give such surety by bond; but he seems to have no power to commit the offender in any other manner, or for any other purpose; for he cannot commit him to gaol till he shall be punished; neither ought he to lay hands on those who barely contend with words, without any threats of personal hurt; but all he can do in such case is, to command them, under pain of imprisonment, not to fight. 1 *Bac. Abr.* 441.

May break open doors.

The Constable may break open doors, to preserve the peace; and if *affrayers* fly to a house, and he freshly follow, he may break open the doors to take them. 1 *Bac. Abr.* 441.

Cannot compel sureties where affray is committed in his absence.

He cannot of his own authority compel a man to find sureties who is delivered into his hands, as having broken the peace in his absence, but ought to carry him before a Justice of the Peace; neither can he arrest a man for an *affray* out of his *view*, with warrant from a Justice of the Peace, unless a felony were done, or likely to be done. 1 *Bac. Abr.* 441, 442.

To apprehend those who expose infant children in the street.

If a person exposes an infant in the street who refuses to take it away, he may lawfully apprehend and detain such person till he or she shall consent to take care of it. 2 *Hawk. P. C.* 77.

Neither the High or Petty Constable can take any man's oath that he is in fear of his life. *Anderson, Ch. J. Cro. E.* 375. *pl.* 25. *Hill.* 37 *Eliz.*

Com-

Common fame is enough to apprehend any man; but if you arrest a man possessed of money, and he dies, you are chargeable with the money, by *Williams, J. cites 2 H. 7.*

A. was possessed of corn in *S.* and *W.* the servant of *B.* by command of *B.* carried away the corn. *A.* prayed the Constable to detain *W.* till he could procure a warrant from a Justice of Peace, which he did. *Held,* that a Constable cannot detain any person but for felony. *Browl. 198, 11 Jac. Ringhall v. Wolsey.*

On action of *false imprisonment* against a Constable, who pleaded *not guilty*, and shewed in evidence, that he came to search in time of the plague for lodgers in the town, and found a stranger, and questioned him which way he came to town; who answered, "over the bridge;" and the Judge conceived this to be a scornful answer to an officer; and because he had not a pass, but travelled without one, and gave such a scornful answer, the defendant did offer to apprehend him, and the plaintiff thereupon being present, said to the defendant, "he shall not go to prison," but yet offered to pass his word for his forthcoming; upon which the defendant did commit the plaintiff: Ruled, on evidence, that there was good cause to commit the plaintiff for opposing the Constable, though but *verbally*, in his office, who is so *ancient* an officer in the commonwealth. *Clayt. 10. pl. 9. before Davenport, Ch. B. Mich. 8 Car. Sheffield's case.*

A. loses goods, and charges *B.* with the stealing them; the Constable searches *B.*'s house, but finds none of the goods; yet on the charge of *A.* and at his request, the Constable may arrest *B.* though he may in discretion refuse, he having found no cause of suspicion

on his search. *Clayt.* 44. *pl.* 69. *August* 1639. *corum Berkley J. Ward's* case.

In trespass for taking salmon, the defendant justified on *stat.* 1 *Eliz. cap.* 17, for that he was a Constable, and that the salmon were caught at an undue season. On demurrer, the plea was adjudged ill, because he did not shew a warrant; for a Constable cannot intermeddle without a warrant, nor the *Leet* without a presentation. 1 *Salk.* 407. *pl.* 1. *Mich.* 2 *W. & M. in B. R. Atkinson v. Crouch.*

Constable
may com-
mand assist-
ance.

A Constable has power to require assistance of whom he pleases, in searching for nets and other engines to take conies, &c. *Comb.* 309. *Mich.* 6 *W. & M. in B. R. The King v. Wildbore.*

Constable
must have
good grounds
of suspicion.

If a Constable takes up any person, it must be on an actual breach of the Peace, or on good grounds of suspicion, and the cause of his suspicion must be shewn, because it is traversable; and in case of suspicion, where there is a felony done, there is no difference between a public and a private person.—Agreed. 11 *Mod.* 248. *Mich.* 1709. 8 *Anne, B. R. in case of The Queen v. Tooley.*

By *stat.* 34 *Edw.* 6, power is given to the Justice of the Peace to arrest all those whom they find, by indictment or suspicion, and put them to prison.

No cause of suspicion will justify an arrest, where in truth no crime has been committed, unless it be in case of *bue and cry.* 2 *Hawk.* 76.

All persons who are present when a felony is committed, or a dangerous wound given, are bound to apprehend the offender, on pain of being fined and imprisoned for the neglect. 2 *Hawk.* 74.

A private person is bound to assist an officer (demanding his help) for the taking of a felon,
or

or in the suppression of an *affray*. 2 *Hawk.*

75.

By *stat. 17 Geo. 2*, (commonly called the *Any person Vagrant Act*) every private person may apprehend *may apprehend* *beggars* and *vagrants*. A watchman may arrest a night-walker without any warrant from a Justice. 2 *Inst.* 52.

A Constable may, *ex officio*, arrest a breaker of the peace in his *view*, and detain him in his house or stocks till he can carry him before a Justice. 1 *H. H.* 587.

Any person (if an *affray* be made in his presence, which tends to a breach of the Kings peace) may seize the offender, without a warrant from a Magistrate, in order that he may be dealt with according to law; but after the *affray* is ended, they cannot be arrested without an express warrant. 2 *Inst.*

52.

The Constable is the proper subordinate officer to a Justice of Peace; he is bound to execute his warrants. *The power of a Constable in executing warrants in or out of his jurisdiction.* It hath been resolved, that where a statute authorizes a Justice of the Peace to convict a man of a crime, and to levy the penalty by warrant of distress, without saying to whom such warrant shall be directed, or by whom it shall be executed, the Constable is the proper officer to serve such warrant, and *indictable* if he neglects or refuses so to do. 1 *Bac. Abr.* 442.

A *sworn* Constable, in executing a warrant, need not shew it to the party, although he demand a sight of it; but in making an arrest, he ought to acquaint him with the substance of it. 6 *Co.* 54. 9 *Co.* 69.

An unlawful arrest, without a Justice's warrant, cannot be made good by a warrant taken out afterwards. 1 *Bac. Abr.* 442.

If the Constable, after he hath arrested the party by force of warrant, suffer him to go

not do a second time. at large, on promise to return again, he cannot, by force of the same warrant, arrest him again. 1 *Bac. Abr.* 442.

Constable cannot arrest with a bad warrant. A Constable cannot justify an arrest by force of a warrant from a Justice of the Peace, which expressly appears in the face of it to be for an offence whereof a Justice of Peace hath no jurisdiction, or to bring the party before him, at a place out of the county for which he is Justice. 1 *Bac. Abr.* 442.

It seems that he ought to execute a general warrant to bring a person before a Justice, to answer such matters as shall be objected against him on the part of the King. 1 *Bac. Abr.* 442.

Constable not accountable, having Justices' warrant. It seems held, that it is not material whether the party arrested by virtue of a warrant from a Justice of Peace, were guilty or innocent, or whether the felony, &c. were actually committed or not; for it would be a great discouragement to officers to subject them to actions in such cases, for doing what they apprehend to be their duty; and the liberty of the subject seems sufficiently secured by subjecting the Justice to an action. 1 *Bac. Abr.* 442.

He may execute warrants in any part of the country. A Constable is an officer but for his own particular *vill*; and though he may execute warrants in any other part of the county, (as any other person may) yet he is not compellable to do it, though the contrary is practised in *London* by custom. *Holt, Ch. J. Cumb.* 446. *Trin.* 9 *W.* 3, *B. R. Anon.*

If a warrant be directed to a Constable by name, he may execute it out of his *precinct*; (that is, any where within the jurisdiction of the Justice of Peace, 11 *Mod.* 246.) *Holt, Ch. J.* 1 *Salk.* 176. *Trin.* 11 *W.* 3, *B. R.* in *Chorly Vill's* case and 2 *Hawk.* 86.

If

If a warrant is directed to all Constables generally, such warrant cannot be executed by any Constable out of the *precinct* of his parish, for he is a Constable no where else. *Carth.* 508. *Hill.* 11 *W.* 3. *B. R.* in case of *The King v. Chandler.* *Lord Raymond* 546. 2 *Hawk.* 86.

One might take a warrant to search a suspicious house upon a *felony* committed, but it is at his risque to execute it in due time, and at suspected houses *only*; and though a Constable may, by virtue of such a warrant, search the house, and do all other things that his warrant doth authorise him to do, yet if he goes beyond his warrant, by which any body is damaged, he is answerable for it.—*Holt*, Ch. J. 12 *Mod.* 344. *Mich.* 11. *W.* 3, at *Nisi prius*. *Of exceeding
the warrant.*

When a Constable has a warrant, he is tied up to that warrant, to act only as that directs. *Mod.* 248. *Mich.* 1709, in case of *The Queen v. Tooley*.

Constable may and ought to execute a *general warrant* to bring a person before the Justice of Peace, to answer such matters as shall be objected against him on the part of the *King*; for that the officer ought to presume, that the Justice has a jurisdiction of the matter which he takes cognizance of, unless the contrary appear; and it may often endanger the escape of the party to make known the crime he is accused of; though it seems to be very questionable, whether a Constable can justify the execution of a *general warrant* to search for *felons* or *stolen goods*, because such warrant seems to be illegal on the very face of it; for that it would be extremely hard to leave it at the discretion of a common officer, to arrest what persons, and to search what houses he thinks fit; and if a Justice cannot legally *Of general
warrants
for felons.*

legally grant a blank warrant for the arrest of a single person, leaving it to the party to fill it up, surely he cannot grant such a general warrant, which might have the effect of an hundred blank warrants. 2 *Hawk. Pl. C.* 81, 82, *cap.* 15, *sect.* 10.

General warrants granted by the Secretary of State to search for the authors of a *libel*, &c. were declared illegal, and a verdict of *three thousand pounds* damages obtained against the Secretary. *C. B. Wilkes v. Lord Halifax.*

A Constable cannot justify an arrest by force of a Justice's warrant, for a matter appearing to be out of his jurisdiction. 2 *Hawk. Pl. C.* 81, *cap.* 13, *sect.* 10.

He may justify by force of a *general warrant* expressing no certain time. 2 *Hawk. Pl. C.* 81, *cap.* 13, *sect.* 11.

If a warrant is directed to two or more Constables jointly, any one of them may execute the same. *Dalt. cap.* 169.

How officer is to execute his warrant, &c.

The officer to whom a warrant is *directed* and *delivered*, ought, with all speed and secrecy, to find out the party, and then to execute the warrant. *Dalt. cap.* 169.

The consequence of opposing the execution of a warrant.

It is held a very high offence, to oppose any one legally authorized to arrest another for *treason* or *felony*. If a person opposes an arrest for *treason*, whereof he knows the party guilty, the law deems him guilty of such *treason*; and so in an arrest for a *felony*, the party opposing is deemed an *accessary*. 2 *Hawk.* 121.

Arrest in the night good.

An arrest in the night is good, both at the suit of the *King* and of the *subject*, otherwise the party might escape, and justice be perverted. 9 *Co.* 66.

By *stat.* 24 *Geo.* 2, *cap.* 55, Constables and others may, on having the warrant indorsed by a Justice in another county, into which an offender shall have escaped, arrest an offender in such

such other county, and carry him before the Justice who indorsed the warrant, or some other Justice or Justices of such other county. If the offence is bailable, to find bail, or else shall carry him back again before a Justice in the county from whence the warrant did first issue.

*May arrest
in another
county.*

A private person cannot raise a power to arrest or detain a *felon*. 1 H. H. 601.

Any Justice of the Peace, or the Sheriff, may take of the county any number that he shall think meet, to pursue, arrest, and imprison *traitors, murderers, robbers, and other felons, or such as do break, or go about to break or disturb the King's peace, and every man, being required, ought to assist and aid them, on pain of fine and imprisonment.* Dalt. cap. 171.

*Justice of
Peace or
Sheriff may
take aid.*

A Justice, Sheriff, or other officer, is not justifiable to assemble the *posse comitatus*, or raise a power or assembly of people on their own heads, without just cause. Dalt. cap. 171.

Women, *ecclesiastical* persons, and such as be decrepid or diseased, shall not be compelled to attend, on the *posse comitatus* being raised. Dalt. cap. 171.

Lord Hale, in his history of the *Pleas of the Crown*, says, that on a warrant for a probable cause of suspicion of *felony*, the person to whom such a warrant is directed, may break open doors to take the person suspected, if on demand he will not surrender himself; as well as if there had been an express, and positive charge against him; for in such case the process is for the King, and therefore a *non omittas* is implied. 1 H. H. 580, 583. 2 H. H. 117.

*Constable
may break
open doors on
probable sus-
picion of fe-
lony.*

As he may break open the party's house, so he may break open the house of another, to take him; but then he must at his peril see that the *felon* be there; for if he is not, he is a trespasser

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to the stranger whose house it is. 2 H. H. 117.

Mr. Dalton says, an officer upon a warrant from a Justice, either for the *peace* or *good behaviour*, or in any case where the King is party, may by force break open a man's house, to arrest the offender. *Dalt. cap. 169.*

On a warrant to search for *stolen goods*, the doors may be broke open, if the goods are there, and if they are not found, the Constable seems indemnified, but he that made the suggestion is punishable. 2 H. H. 151.

On a warrant of a Justice of the Peace for the levying a forfeiture in execution of a judgment, or conviction for it, grounded on any statute, which gives the whole or any part to the King. 2 Hawk. 86.

If an *affray* is made in a house, in the *view* or *bearing* of the Constable, he may break open the doors to take them. 1 Hawk. 137. 2 Hawk. 87.

The same, if there be disorderly drinking or noise in a house, at an improper time of night, especially in *inns*, *taverns*, or *ale houses*, the Constable, or his watch, first demanding entrance, and being refused, may break open the doors, to see and suppress the disorder. 2 H. H. 95.

On a *general warrant*, without expressing any *felony* or *treason*, or *surety of the peace*, the officer cannot break open a door. 1 H. H. 584.

Where a *felony* hath been committed, or a *dangerous wound* given, or even where a minister of justice comes armed with process, founded on a *breach of the peace*, the party's own house is no sanctuary for him. *Fest. 320.*

In all cases, if an officer, to serve a warrant, enters into a house, the doors being open, and then the doors are locked upon him, he
may

may break them open, in order to regain his liberty. 2 *Hawk.* 87.

Where a warrant issues against a person for *felony*, and either before arrest or after, he flies, and defends himself with stones or weapons, so that the officer must give over his pursuit, or otherwise cannot take him without killing him, if he kills him, it is no *felony*. The same law holds for a Constable that doth it by virtue of his office, or on *buc and cry*. 2 *H. H.* 118.

In this case, he must be a lawful officer, or there must be a lawful warrant. The party ought to have notice of the reason of the pursuit, namely, because a warrant is against him: It must be a case of necessity, because it is the necessity that justified the act. 2 *H. H.* 119.

A person sworn, and commonly known, and acting within his own precinct, need not shew his warrant; but he ought to acquaint the party with the substance of it. 2 *Hawk.* 85.

An officer giveth sufficient notice to the party he intends to arrest, when he saith to the party "I arrest you in the King's name." The party taken is, at his peril, to obey him; if he is not a lawful officer, or hath not a warrant, the party aggrieved may have his action of *false imprisonment*. *Dalt. cap.* 169.

If an officer acts *out* of his precinct, or is not sworn and commonly known, he must shew his warrant (if demanded.) 2 *Hawk.* 85, 86.

If he refuses, the party taken may make resistance, and justify it. *Dalt. cap.* 169.

If the Constable has no warrant, but doth it by virtue of his office, it is sufficient to notify that he is a Constable, or that he arrests in the King's name. 1 *H. H.* 583.

On warrants of distress, issued by a Justice of Peace, for the levying a pecuniary forfeiture

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feiture or sum of money, it is specially provided by *stat. 27 Geo. 2, cap. 20*, that the officer executing the same, shall, if required, shew his warrant to the person whose goods are distrained, and shall suffer a copy thereof to be taken.

Bare words will not constitute an arrest from a Constable or other officer, without laying hold of the person, or otherwise confining him. If an officer comes into a room, and tells the party he arrests him, and locks the door, this is an arrest, for he is in custody of the officer. *1 Salk. 79. 2 Hawk. 129. Cases Temp. Ld. Hardwicke, 301.*

It hath been held, that if a Constable, after he has arrested the party by force of a warrant, suffer him to go at large, on his promise to come again, and find sureties, he cannot afterwards arrest him by force of the same warrant. *2 Hawk. 81*

If the party arrested do escape, the officer may take him again and again, so often as he escapes, although he were out of view, or that he shall fly into another town or county. *Dalt. cap. 169.*

How officer or other person is to conduct himself after he has arrested the person.

When a private person hath arrested a felon, or one suspected of felony, he may detain him in custody a reasonable time; but he must with all convenient speed dispose of him, as follows:

He may carry him to the common gaol (now very rarely done.) *1 H. H. 589. 2 H. H. 77.*

He may deliver him to the Constable, who may carry him to gaol or before a Justice. *1 H. H. 589.*

He may carry him immediately to a Justice of the Peace. *1 H. H. 589.*

It

If the Constable, or his watch, hath arrested affrayers, or persons drinking in an ale house disorderly, at an unseasonable time of night, he may put the persons in the stocks, or in a prison, if there be one in the *vill*, till the height of their passion or intemperance is over, though he deliver them afterwards, or till he can bring them before a Justice. 2 H. H. 95.

If the arrest is by warrant, when the officer has made the same, he is forthwith to bring the party as directed by the warrant. If it be to bring the party before the Justice who granted the warrant *speedily*, then the officer is bound to bring him before the same Justice; but if the warrant be to bring him before any Justice of the county, then it is in the election of the officer to bring him before what Justice he thinks fit, and not in the election of the prisoner. 1 H. H. 582. 2 H. H. 112.

If the time be unseasonable, as in or near the night, whereby he cannot attend the Justice, or if there be danger of a present rescue, or if the party be sick, he may secure him in the stocks, or in an house, till the next day, or such time as it may be reasonable to bring him. 2 H. H. 120.

When he hath brought the prisoner to the Justice, yet he is, *in law*, still in his custody, till the Justice *discharge, bail, or commit him*. 2 H. H. 120.

It is said, the Constable is not obliged to return the warrant itself, but may keep it for his own justification in case he should be called on. *Ld. Raymond, 1196. stat. 24 Geo. 2, cap. 44.*

If a Constable, or other, who hath a prisoner under arrest for *felony*, or suspicion thereof, voluntarily letteth or suffereth the prisoner to go where he will at liberty, (though this be breaking of prison) yet it is felony in
H the

Of permitting a prisoner to escape.

the Goaler, Constable, or him that letteth such prisoner escape; but it is no felony in the prisoner: But if such prisoner escape by the negligence of his keeper, and against his will and knowledge, then it is felony in the prisoner, because a breach of prison, and the Goaler, Constable, &c. may be fined by the Judges or Justices for such escape. *Bro. Coron. 112. Dalt. Just. c. 107, fol. 272.*

Of suffering a thief to drown himself.

If a Constable, or other officer, shall voluntarily suffer a thief, being in his custody, to go into the water, and drown himself, this escape is felony in the Constable, and the drowning makes the thief *felo de se*; but if the thief shall suddenly (without the assent of the Constable) kill, hang, or drown himself, this is but a negligent escape in the Constable, and fineable as aforesaid. *Dalt. Just. c. 106, fol. 272.*

Where no felony is suspected to have been committed.

The voluntary letting a felon escape before he be arrested for the felony, is no felony in the party that suffereth him to escape; but if the Constable suffer one to escape, when he knows he hath committed a felony, in such case he may be indicted, and fined for suffering the escape; and, it is said, will make him accessory to the felony. *Bro. Escape, 43. Dalt. Just. c. 106, fol. 272.*

If a man be arrested for suspicion of felony, by the Constable or other person, and after they shall have intelligence that there is no such felony committed, here they may set the party arrested at liberty again, and they shall not be charged with the escape; for there can be no felon, where there is no felony committed. 13 *H. 7, 7, & Cromp. 40. Dalt. c. 106, fol. 272.*

Where felony is actually committed.

But if a felony be really committed, and one is arrested for the same, or for suspicion thereof, though the Constable or other person

that

that made the arrest, shall after have certain intelligence and knowledge that the party arrested is not guilty of the offence, yet they may not set the party at liberty; for he must not now be delivered by any man's discretion, but by due course of law, otherwise it will prove a voluntary escape, and so felony, or at least fineable. *Cromp.* 40. 44. *Aff.* 12. *Dalt. c.* 106, fol. 275.

Nota, In all cases of misdemeanor, where a private person hath authority to arrest one for any offence, it is required for him to carry and deliver the prisoner to the constable, or some other officer. Vide 20 E. 4. 6. Dalt. Just. c. 118, fol. 338.

In case where a Justice of Peace, Constable, *Where felon is pursued into another county.* or other officer, comes to a felon to arrest and take him, and he perceiving, flies to another county before he can be taken, in such case the felon shall be carried before some Justice of Peace of that county where he is taken, and must be committed to the gaol of that county, although the felony were committed in another county. *Bro. Faux Impr.* 25. *Dalt. c.* 118, fol. 340.

The Constable or other officer, that shall imprison in the stocks any felon, may lock the stocks, and if need be, he may also put irons on the prisoner; and when he conveyeth him to the goal, or to the Justice, he may pinion him, or otherwise make him sure, so that he cannot escape. *Dalt. Just. c.* 118, fol. 324. *Constables may pinion, &c. felons.*

The Constable may do what he can to keep the peace, but he cannot take surety of the peace at the request of any man. *Cromp.* 6. *Of keeping the peace.* 12 *H. 7, fol.* 18. a.

Nota, That the breach of the peace is said to be an injurious force or violence used against the person of another, his goods, lands, or other possessions, whether it be threatening words or furious gestures,

or force of the body, or any other force used in *terrorem*. *Dalt. Just. c. 3, f. 9.*

If a Constable or other officer, having a warrant from a Justice of Peace to arrest a man, to find sureties for the Peace, do afterwards receive a *superfedeas* out of the *chancery*, &c. or from another Justice of the Peace of the same county, to discharge the same surety of the peace, and yet nevertheless the officer will urge the party to find sureties by virtue of the warrant, the party may refuse to give it, and if he be arrested or imprisoned for such refusal, he may have his action of *false imprisonment* against such officer; for such *superfedeas* is a discharge of the former precept or warrant. *Lamb. 101. Dalt. Just. c. 69, fol. 168.*

If any shall abuse a Constable in doing of his office, the Constable may have the party bound to his good behaviour for it. *Fitz. Abr. 202. Cramp. 135.*

Of person
committing
adultery, &c.

If a Constable be informed that a man and a woman be in adultery, or fornication together, or that a man and a woman of evil report are gone to a suspected house together in the night, the Constable may take company with him, and if he find them so, he may carry them before a Justice of Peace, to find sureties for their good behaviour. 13 *H. 7, 10. Bro. Travers. 432. Dalt. Just. c. 75, fol. 189.*

Of riots.

Stat. 17 R. 2, c. 8, Sheriffs, Constables, and all other the King's Officers, shall suppress rioters; and imprison them, and all other offenders against the peace.

Knights, and all other temporal persons under that degree, that be above the age of *fifteen years*, and be able to travel, upon warning given, are to be assistant to the Justices, when they shall be reasonably requested to suppress riots, on pain of imprisonment, and to make

make ransom to the King. 2 H. 5, 8, *Dalt.*

Just. c. 46, fol. 114.

Note, where three persons or more shall come or assemble themselves together, to the intent to do any unlawful act, with force or violence, against the person of another, his possessions or goods, as to kill, beat, or otherwise to hurt, or imprison a man; to pull down an house, wall, pale, hedge, or ditch; wrongfully to enter upon, or into another man's possession, house, or lands, &c. or to cut or take away corn, grass, wood, or other goods wrongfully, or to hunt unlawfully in any park or warren, or to do any other unlawful act (with force or violence) against the peace, or to the manifest terror of the people, if they only meet to such a purpose or intent, although they shall after depart of their own accord, without acting any thing, yet this is an unlawful assembly, because of their intention at the first. *Bro. Tit. Riot. 4 5 Lamb. 179, 181.*

If after such meeting as aforesaid, they shall ride, go, or move forward towards the execution of such act, whether they put their intended purpose in execution or not, this is a rout. *Bro. Riot. 5 Co. p. 72. Dalt. Just. c. 8.*

And if they do any such thing indeed, then it is a riot. *Co. 3 Inst. fol. 176.*

Where twelve are come in a riotous manner, the Justice, Sheriff, or head officer, shall come as near the rioters as he can with safety, and with a loud voice command silence, whilst the proclamation is making, and then read, or cause to be read, in these words, or to the like effect:

ff. Our Sovereign Lord the King chargeth and commandeth all persons, being assembled, immediately to disperse themselves, and peaceably depart to their habitations or lawful business, upon pain contained in the act made

in the *first* year of King *George*, for preventing tumults and riotous assemblies. c. 5.

*How rogues
and vaga-
bonds are to
be punished.*

The Constable, Headborough, or Tithingman, assisted by the minister and one other of the parish, is to see (or do it himself) rogues and vagabonds, who shall be taken begging, stripped naked from the middle upwards, and openly whipped till their body be bloody, and then forthwith to be sent away from Constable to Constable, the next straight way to the place of their birth; and if that cannot be known, then to the place where they last dwelt by the space of one whole year before such punishment; and if that cannot be known, then to the town through which they last passed unpunished: And when they come there, if it cannot be discovered where they were born, or last dwelt as aforesaid, then they are by that Constable to be conveyed to the house of correction, or common gaol of the county, to be employed in work, or placed in some service, and so to continue by the space of *one year*; or in case they be not able in body, that town is to keep them till they may be placed in some almshouse within the same county. 39 *El.* c. 4. *Resolut. Judges, sect. 714. 2 Bulst. Rep. fol. 258.*

*Vagabond to
have a tes-
timonial.*

After such whipping, the vagabond is to have a testimonial under the hand and seal of the Constable, Tythingman, &c. and the minister, testifying the day and place of his punishment, the place to which he is to be conveyed, and the time limited for his passage thither; which time, if by his own default he exceeds, he shall from time to time incur the like punishment, till he arrive at the place limited; the substance of the testimonial is to be registered by the minister in a book, which he is to keep for that purpose, on pain of *five shillings*. *Dalt. Just. fol. 129.*

If any Constable, Headborough or Tything-man be found negligent in the due execution of the act of the 39 *Eliz.* aforesaid, he forfeits *ten shillings* for every default, and all such persons as shall in any wise disturb or hinder the execution of the law, or any part thereof, concerning the punishment of rogues, forfeit *five pounds*, and to be bound to their good behaviour; and observe therefore, that by the resolution of the judges, *sect. 13, 14*, where a rogue is to be conveyed from Constable to Constable, the next straight way to the place of his birth; in such case, if the Constable of any parish will not receive such rogue, to convey him to the next Constable, &c. this is a forfeiture of *five pounds* in such officer that shall not receive the party, to convey him or her, and he may be bound, as aforesaid, to the good behaviour; and if he receive him, and do not convey him to the next Constable, it seems he incurs the like penalty. 39 *Eliz. c. 4. Dalt. Just. c. 47, fol. 128. & Resol. Judges, sect. 13, 14.*

Every person shall apprehend or cause to be apprehended, such rogues as he shall see or know to resort to his house to beg, or receive any alms, and him or them shall carry, or cause to be carried to the next Constable, or else shall forfeit for every such default *ten shillings*; and the Constable is to whip and convey such rogues as afore directed, on pain of *twenty shillings*. 1 *Jac. c. 7. Dalt. Just. c. 47, fol. 128.*

By *stat. 7 James, cap. 4*; if the Constables or Tythingmen neglect to make privy search for rogues, upon warrant from the Justices of Peace, and to appear before the Justices at their meeting appointed for that purpose, to give an account upon oath, in writing, under the minister's hand, testifying what rogues, &c. they have taken

taken in that search, or since the last meeting, and how many have been punished, or otherwise sent to the house of correction, or if they neglect safely to convey such to the house of correction, as by the said Justices warrant are to be committed thither, they are to incur what fine the Justices please to set upon them, so that it exceed not *forty shillings*.

What persons are deemed in law rogues.

Note, That all these persons following, being above the age of *seven years*, man or woman, sole or covert, that wander from their usual place of abode, abroad every where begging; or if they do not beg, yet if they wander and loiter abroad without a lawful passport, and give no good reason for their travel, are accounted rogues: All scholars and sea-faring men which beg, wandering persons, that use unlawful games, subtile craft, or plays, or pretending themselves to have skill in physiognomy, palmistry, or the like, or to be fortune-tellers; all proctors, patent-gatherers (except for fire) collectors for gaols, prisoners, or hospitals wandering abroad, fencers, bearwards, common players of interludes, and fiddlers, or minstrels wandering abroad, all jugglers, tinkers, pedlars, and petty chapmen, and glassmen wandering abroad, especially if they be not well known, or have not a sufficient testimonial; all counterfeit *Egyptians* not being felons; all persons delivered out of gaols, which beg for their fees, or otherwise do travel begging; such as go to or from the paths, and do not pursue their licence: Soldiers and mariners that beg and counterfeit a certificate of their commanders; all labourers which wander abroad out of the parish, and refuse to work for wages reasonably taxed, having no living otherwise to maintain themselves, and such as go with a general passport which is not directed from parish to parish: All these are accounted

accounted rogues, vagabonds, and sturdy beggars: And all servants departing out of their service (to wit, forth of one city, town or parish, to another, or out of one hundred or county to serve in another) without a testimonial, or which be taken with a false one, and those that are sick of the plague, and wilfully go abroad in company, against the command of officers, are to be punished as vagabonds: But observe, that none but the wandering rogue is to be sent to the place of his birth, or last habitation; for those poor people which beg in their own parish, without the appointment of the overseers, or in the highways, are to be sent to the house of correction. 39 *Eliz. c. 4* & 7. 43 *Eliz. c. 2.* 1 *Jac. c. 7.* 21 *Jac. c. 28.* 5 *Eliz. c. 4.* & 2 *Cro. Rep. fol. 577.*

The Constable, by warrant from a Justice of Peace, (or the chief officer of any city, borough or town corporate,) under their hand and seal, against such as use unlawful games on the sabbath day, as bull baiting, bear baiting, interludes, or other unlawful exercises within their own parish, or out of their own parish, at any such sports whatsoever, may levy the penalty of *three shillings* and *four-pence* by distress and sale of the offender's goods, rendering the overplus to the owners; and in default of distress, the Constable is to set the offenders in the stocks by the space of *three hours*. Note, that the party offending in these games must be questioned within *a month* after the offence is committed. 1 *Car. 1. c. 1.* *Dalt. Just. c. 23, fol. 63.*

If any one on the sabbath-day keep, or be present at any wrestling, shootings, bowlings, ringing of bells for pleasure, mask, wake, church-ale, dancing, games, sport, or pastime whatsoever, they forfeit *five shillings*, if he or she

he be above *fourteen years* of age, and if under that age, then *twelve pence* by him that hath the government of the party, to be levied by sale and distress by the Constable, by warrant from a Justice of the Peace, or chief officer, as aforesaid; and for want of distress, to be set *three hours* in the stocks; and every carrier going with his horses on this day, or waggoner, carter, or waynman, going with any waggon, cart or wain, or drover with his cattle, forfeit *twenty shillings* for every offence, to be levied by distress and sale of his goods, if he be questioned within *six weeks* after the offence done; but there must be but one *twenty shillings* forfeit for one journey, although they pass through several parishes, and this *twenty shillings* that parish shall have where the distress is first taken.

3 Car. 1. c. 1. Dalt. c. 50, fol. 134.

Butcher selling meat.

And if any butcher by himself, or any for him, shall kill or sell any victuals upon the Lord's day, he forfeits *six shillings* and *eight-pence*, to be levied by the Constable by distress and sale as aforesaid, upon warrant from a Justice of Peace, &c. the offence to be questioned within *six weeks* after it is committed, and the parties to be convicted before any Justice of Peace, Mayor, or Head Officer, &c. upon their own view, proof of two witnesses or more, or the party's own confession; and the Justice, Mayor, &c. may reward the informer with a third part of the penalty.

3 Car. 1. c. 1. Dalton's Just. c. 50, fol. 134.

Drover, waggoner, bigler, &c.

All laws in force concerning the observation of the Lord's day shall be put in execution; none shall do any work by labour or business that day, (works of charity and necessity only excepted); and the offender, if of the age of *fourteen years* or upwards, shall forfeit *five shillings*; none shall cry or expose to sale any wares

wares that day, on pain to forfeit them; no drover, horse-courser, waggoner, butcher, higler, or their servants, shall travel on the Lord's day, on pain to forfeit *twenty shillings*; no person shall travel on that day with any boat, wherry, &c. except on extraordinary occasions to be allowed by a Justice of Peace, or Head Officer of the place, &c. on pain to forfeit *five shillings*. 29 Car. 2. c. 7.

The Justice of Peace, or Chief Officer of the city, borough, &c. before whom the offender is convicted, by view, confession, or oath of one witness, shall give warrant to the Constables or Church Wardens to seize the goods cried, or put to sale, and to sell them, and to levy the other penalties by distress and sale of goods, and in case of inability, &c. to set the offenders in the stocks for *two hours*; the penalties to be to the poor of the parish where the offence is committed, saving that the Justice or Head Officer may reward informers, the reward not exceeding a third part of the penalties; but prosecution must be made upon this act within *ten days* after the offence committed. 29 Car. 2. c. 7.

Dressing of meat in families, inns, cook-shops, &c. and crying of milk before *nine* in the morning; or after *four* in the afternoon, are not prohibited by this act. 29 Car. 2. c. 7.

No writ, process, warrant, &c. shall be served on the Lord's day, except for treason, felony, or breach of the peace; but the service shall be void, and the party serving it shall answer damages, as if done without warrant. 29 Car. 2. c. 7.

Constables and Headboroughs, by virtue of *Constable* a warrant from two Justices, are to levy the *duty concern-* money adjudged for refusing the payment of *ing tythes*. small tythes, by distress and sale in *three days*, and they may retain the charges for making the

the distress; and two Justices have power to summon the party, hear the complaint by witnesses on oath, and give judgment, by making an allowance for the tithes, and ordering costs not exceeding *ten shillings*. Stat. 7, 8 Will. 3. c. 6. 10, 11 Will. 3. c. 15. & 6 Ann. c. 28.

Tithes under *forty shillings* a year, and tithes due from quakers, under *ten pounds*, are thus recoverable. 1 Geo. 1. c. 7.

Constable, after he is out of his office, may be sued as another person.

Trinity, 7 Geo. Anonymous. In an action of trespass and assault; on the evidence it appeared, that the defendant was a Constable, and lived at *Dover*; and that being ordered to take the plaintiff, and carry him before the Mayor, he executed his warrant, and the Mayor discharged the plaintiff. Soon after which a dispute happening between the plaintiff and defendant, the defendant beat the plaintiff, for which an action was brought. It was insisted for the defendant, that he being a Constable, they should have brought the action in the proper county, according to *stat. 21 Jac. 1. per curiam*—That is only where it is for a matter relating to the execution of his office; but if after his authority is expired, he abuses the party; or if he meets a man and knocks him down, he may be sued for it as well as another. *Stra. vol. 1. p. 446.*

Constable may be indicted for suffering a street-walker to escape out of custody.

Trinity, 32 & 33 Geo. 2. The King v. Bootie. On a motion in arrest of judgment, after a verdict for the King, on an indictment against a Constable for a misdemeanor, in letting a woman escape out of custody, who was charged as a street-walker, &c. the objection taken on the rule, to shew cause was, that it is not charged, that the defendant knew that the woman taken in custody was a street-walker, &c. as the indictment described her to be, and if she was not a street-walker, she was not

not liable to be detained by him, and he would by such detainer have subjected himself to an action for false imprisonment, *per curiam*. The present case is a misdemeanor, and sufficiently charged on the defendant. The peace of this city can never be preserved, unless watchmen are supported in doing their duty. It is a misdemeanor in the Constable to discharge an offender brought to the watch-house by a watchman in the night, though without any positive charge. In the present case, it is a sufficient allegation of the fact of her being such a person, and of her being delivered to the defendant as such a person. By the court.—Let the rule to shew cause why the judgment should not be arrested be discharged. *Bur. vol. 2, p. 864.*

K. B. Trinity, 1 Geo. 3. The King v. Darbyshire. On an indictment brought against the defendant, at the Quarter Sessions at *Warwick*: The indictment set forth, that a court-leet, holden in and for the manor of *Birmingham*, the defendant was duly elected by the jury, one of the Constables for the said manor for the year ensuing; that the defendant had notice of such election, &c. that the steward of the manor certified his appointment to the Justice of Peace, by whom he was summoned to appear, &c. to take the oath of office as Constable, &c. and that although summoned, &c. he refused to take on him the said office, &c. The defendant moved the indictment into this court by *certiorari*, and it was tried at *Warwick assizes* before *Parker*, Chief Justice. It appeared on evidence, that the facts charged against the defendant were true, and that the defendant was eligible to serve the said office, unless exempt by reason of a certificate, &c. That the defendant had a certificate according to *stat. 10 & 11 W. 3, c. 23*, discharging one *P. J.* from all parish offices within the said

parish of *B.* and an assignment thereof duly executed and enrolled. On this state of the cause, a special case was made for the opinion of this court, on the following question: "Whether the said *J. D.* on the circumstances of this case, is, notwithstanding the certificate, guilty of the indictment, or not guilty." After hearing counsel on both sides, the court gave their opinion as follows: Lord *Mansfield*.—The question is, whether the Constable of the manor of *B.* is a parish officer of the parish of *B.* The term parish officer, does not include every office exercised in the parish; if it did, it might even take in the office of High Sheriff of the county. It is an office relative to the parish only; but this man has a much larger jurisdiction than the parish only, for he has a jurisdiction over the whole manor; the act does not intend the certificate to be a discharge from an office whereof the functions are to be exercised out of the limits of the parish. The defendant cannot be esteemed a parish officer, either from the origin of his office, or the nature or the exercise of it. *Denison* and *Wilmot*, Justices, gave their opinion to the same effect as the Chief Justice. *By the court.* Let the *posse* be delivered to the prosecutor, and judgment be entered for the King. *Bur.* vol. 2, p. 1182.

Michaelmas, 2 Geo 3. *Medhurst v. Waite*. On an action brought by the plaintiff against the defendant, who was deputy High Constable, for billeting soldiers on him; and the High Constable being at a distance, appointed the defendant his deputy by *parole* only. On a motion for a new trial, the questions on which the motion was grounded were, 1st, Whether a High Constable is a common law officer? 2dly, Whether a High Constable is within the word "Constable" in the annual mutiny act,
fo

so as to empower him to billet soldiers? 3dly, Whether a High Constable can appoint a deputy for this purpose? *Wilmot*, Justice, acquainted the court, that at the trial of the cause, he was of opinion in the affirmative on all the three points. On hearing counsel on both sides, the court gave their opinion: Lord *Mansfield*.—It is impossible to maintain, that a High Constable is not within the mutiny act. The statute certainly comprehends a High Constable, and he may appoint a deputy for this particular *ministerial* act. *Dennison* and *Fester*, Justices, concurred with the Chief Justice. *Wilmot*, Justice, continued of the same opinion that he gave on the trial of the cause. By the court, unanimously.—Let the rule be discharged. *Bur. vol. 3, p. 1257.*

PRACTICAL STRICTURES
ON THE
OFFICE AND DUTY
OF
CONSTABLE.

HAVING perused the foregoing sheets, the reader must be satisfied that the office of Constable is held in a very different light by the *Legislature*, than what it is in general estimated by the public at large, as to its respectability. A moment's thought will shew from whence the *odium* arose, viz. Its being frequently exercised by *men of low character*, and *worse morals*. This position allowed, every person sworn into the office of Constable has it in his power to make it important, if he will use the *vigilance* and *integrity* the duties of the office require. To enable him to execute this great branch of *civil policy* with pleasure to himself and service to the public, the following pages are offered to his serious attention.

Constable. A faithful discharge of the office you are called on to execute, may, at first view, seem to require a greater share of knowledge in the Common and Statute Law, than falls to the share of those who are not bred to it scientifically.
This

This idea may discourage, but the fact is otherwise. The several duties of the office of Constable, have been all or most part *judicially* investigated, and reduced to a criterion. The best rule of action in your practice, is to consider properly the intention of the Legislature, in the particular branch of duty you are going to execute. The great end of your office is to serve the public. To acquit yourself in this, you must avoid all officious wanton acts of power : You must banish from your mind all partial prejudices or idle resentments, as only tending to mislead or involve the individual in litigious law-suits. Unanimity among your brethren is another essential requisite. This you will find a great support to you in the difficult departments of your duty ; it will render you formidable to that class of beings to whom you should always be held up as an object of terror, or a material part of your importance is lost. This union will render you a valuable safe-guard to those whom it is your duty to succour and protect. In the execution of the several duties of your office, the next thing to be attended to, seems to be temper and sedateness ; coolly and deliberately considering the nature of every service you are called upon to perform ; what you ought to do, and the best and securest manner of doing it with effect for the public service. For it would ill become a Peace officer, called on and acting in the King's name to quell the intemperance of others, to be found under the same predicament. Nay more, this conduct has often been found fatal to the persons who have adopted it, by affording many opportunities to the lower sort of law solicitors to stir up and prosecute expensive and vexatious suits against civil officers.

THE COMPLEAT CONSTABLE.

These general cautions being duly attended to, it is necessary to shew some other parts of the duties of the office, viz.

WHAT A CONSTABLE MAY AND OUGHT TO DO, AS CONSERVATORS OF THE PEACE ON VIEW ;

AND

As Officers, or Ministers of the Sessions, Sheriff, Coroner, Justices of the Peace, and High Constable ; or, in other words, what he may and ought to do with a Warrant ; and what when acting without one.

As conservators of the Peace.

You have a right and power within your respective parishes, townships, and divisions, to quell all *affrays, riots, routs, and actual assaults*, by commanding the parties offending, in the *King's name*, to keep the peace, and quietly to depart about their respective businesses ; and on refusal, to apprehend all persons who shall in *your view* break the peace, by assaulting, striking, or by fighting (though with mutual consent) if either party appear wounded, and to carry such persons directly before some Justice of the Peace in the district, if it be in the day time, or if such assault, &c. be in the night season, to imprison the assailants until the next morning. All persons

How to act in assaults, &c. committed on view.

within *view* of an *affray, riot, rout, or assault*, being called upon by the Constable in the *King's name* to aid and assist him, may be indicted if they neglect or refuse so to do, unless sufficient cause can be assigned for such refusal. On application, the Courts of Justice have a power to *fine and imprison* the party offending in this case, for their contempt. This power of demanding aid, is lodged in the Constable from his office. If, when you demand aid, it is refused

refused or neglected, so as the party you want to apprehend escape, or you are struck or indeed even resisted, so as you cannot perform your duty, endeavour to fix your charge upon some conspicuous or known person, that you may be able to bring your charge home.

Though, as a conservator of the peace, the Constable has a power to apprehend without warrant he cannot legally discharge his prisoner on his own authority; the intention of the law in the arrest, being to bring the prisoner to a magistrate, to be dealt with according to law; and the Constable not being an officer of record, has no power of action but in the first instance, viz. the taking the prisoner. If the Constable should neglect or forget this caution, he will be subject to an indictment, or action of false imprisonment. In this case, the Constable discharging his prisoner, amounts to a confession, that he had no lawful power to arrest such prisoner.

Can't discharge a prisoner taken on view.

Nota, It is extremely dangerous for a Constable to intermeddle after an affray or assault is over. When that is the case, the person injured ought to apply to a magistrate for his warrant. If, on a Constable coming in after an affray or assault is over, and on view he finds the person assaulted appears to be dangerously wounded, and the injured party charges any person present, the Constable certainly ought to detain him, as the delay of a warrant may be the means of the prisoner's escaping (though for murder) whereby justice would be perverted. In case there has been a bare affray, though accompanied with blows, and the Constable has interfered by way of prevention only, no real mischief having happened, or charge been given, and no danger of any future mischief doth appear, the

To avoid taking people into custody after affray is over.

the Constable having first separated the parties, may depart himself.

*Not to strike
when exe-
cuting his
office.*

A Constable should never strike when in the execution of his office, unless it be absolutely in his own defence. Nay, in that case, it is better avoided. If any riot should be too violent for the Constable to quell when called on, if he apprehends the same may endanger the public peace, he should directly give notice of it to two magistrates, and call to their assistance as many Constables as he can collect together, and such magistrates will take cognizance of the same.

*Constable to
regulate
watch.*

It is the Constable's duty to find and provide able watch within his parish (except those provided by Act of Parliament) indeed the whole authority of watch and ward stands upon the statute of *Winchester*. This statute, however, gives the Constable no power to collect money to pay hired men. The law says, the Constable shall warn able bodied men in their turn; station them properly, and present such as neglect or refuse to do their duty. The presentment must be for neglect between the times they were to watch; and the presentment must state, that they were duly summoned to watch.

*The proper
objects for
the Constable's
attention in the
night watch.*

The proper objects for the Constable to attend to in night charges, are rogues, vagabonds, and all disturbers of the peace in the night, especially whores, who constantly infest the corners of streets and alleys, and are the chief cause of midnight riot and confusion.

*His duty as
to persons
taken in the
night.*

If the Constable or the watch apprehends suspicious persons in the night, it is the Constable's duty to see they are properly searched. If fire-arms, or other offensive weapons, watches, or other valuable effects, be found on the party, it behoves the Constable to se-
cure

cure the things found on the party, and take in writing correctly the first account they give of themselves, and how they came by the things found on them. This conduct often leads to useful discoveries. The Constable should take care to give proper instructions to the keeper of the round house, or gaoler to whose care he delivers his prisoners, that he neither let any person have access to them, nor suffer them to send any message, or to make any alteration in their habit before they are brought before a Justice, lest by practising some deception, they should pervert the course of the law.

It behoves the Constable of the night to be cautious of taking into custody, and imprisoning men of credit, upon street squabbles. If neither he nor his watch saw the peace broke, nor any violence or apparent signs of it upon the parties complaining, it is best not to be too officious. He should give a proper charge to his watchmen, not to be impertinent, nor squabble with people they met within their beat, who are only heated with liquor.

Caution: to be observed by Constables in apprehending in the night.

The Constable, if he has a mind to acquit himself with honour and credit in his nightly duty, must act calmly and deliberately in his inquiries into all matters brought before him when at the watch house. He must fix his attention upon the offence the party is charged with, and not lose sight of it on account of any improper behaviour in the party or parties giving the information.

As to charges brought before him in the night.

The Constable should use his authority, in endeavouring to keep the watch house clear of people who have no real business there, as a contrary conduct only tends to breed confusion, and sometimes is productive of litigious law suits.

The advantage that arises from keeping the watch house clear of intruders.

As to apprehending of felons.

Constable's conduct on information of a robbery.

How he is to act on report.

Caution where there is suspicion only.

Punishment for neglect of duty.

As the law hath given the Constable full powers for to do his duty with safety to himself, he should under this branch of it only consider two things: *First*, that a felony has been really committed. *Secondly*, that the person he arrests is properly suspected. The first is absolutely necessary to justify an arrest, for a mistake here may be fatal; an error in the second is excusable in the law. The Constable, in order to keep himself free from mischief in the discharge of this part of his duty, must take care that whoever brings him an account of a robbery having been committed, and where the felon is, he must examine such person with great caution, viz, if the intelligence of the thief is on his own knowledge or on report. If on his own knowledge, the wisest way is for the Constable to charge the informant in the King's name to aid and assist him in apprehending the felon. If the information is on report only, it is then necessary for the Constable to extend his inquiry to the party who can bring the fact home, and act as in the former case. The Constable will, by such conduct, have it in his power generally to produce his prisoner and his accuser at the same time before the magistrate.

In all cases where there is only suspicion of felony, &c. and that not from the Constable's own knowledge, the safest way is to refer the parties to a Justice of the Peace, and if he thinks fit to apprehend, for the Constable to act under his warrant.

The law will punish a Constable by indictment, and heavy fines, if he neglects or refuses to pursue and apprehend felons. If after he has apprehended them, he suffers them to escape, should it be proved to be done wilfully, it is deemed felony in the Constable, and he may be punished as such. Nay,
if

if the escape is only through negligence, it may produce a prosecution against the Constable that may end in his ruin. It is therefore the safest way for the Constable, as soon as he hath apprehended a felon, to be as expeditious as possible in delivering him over to a magistrate. After commitment he must take care to see his prisoner safely delivered to the gaoler; he must never trust his prisoner to any one, for the law requires him at the hands of the Constable who first apprehended him.

*How to get
legally dis-
charged
from his
prisoner.*

It is the Constable's duty to see that the pavement of the public streets are kept in due repair. If neglected, he should warn the party whose business it is to do the same. If on two or three warnings, the nuisance is not removed, he should present them, that they may be indicted. The same steps should be taken by the Constable where rubbish is laid or left in the streets, to the danger or hurt of the passing passengers. If carmen ride on their carts, and brickmakers in their waggon, going full trot in the streets of this town, and the roads near it, not having a person on foot or on horseback to guide the same, and any person receive injury thereby, the party offending incurs the penalty in *stat. 27 Geo. 2*, being for every offence *ten shillings*; if not paid to be committed to the house of correction for any time not exceeding *one month*. And by *30th* of the same *King*, if the driver of any carriage whatsoever, in the cities of *London* and *Westminster*, or bills of mortality, shall, by negligence or wilful misbehaviour, prevent, hinder, or interrupt the free passage of his Majesty's subjects, every such driver being convicted, on confession or oath of one witness, before one Justice, shall forfeit a sum not exceeding *twenty shillings*, or be committed to the house of correction or other prison, for any time

*Constable's
duty in re-
moving pub-
lic nuisances.*

time not exceeding *one month*, in the discretion of the Justice. Persons offending under this act, may be apprehended by any person seeing the offence, without warrant, in which case a moiety of the penalty goes to the person who prosecutes the offender to conviction. It is the Constable's duty to remove orange barrows that stand in the street, as this is deemed betting and playing at unlawful games; and the offenders, by *stat. 17 Geo. 2*, are declared rogues and vagabonds, and punishable as such. It is the Constable's duty to endeavour to prevent profane cursing and swearing. One caution seems here necessary, viz. if the offender be known to the Constable, a warrant is necessary. If the party be not known to the Constable, then he may directly apprehend the offender without process. The penalty is for every oath of a gentleman, *five shillings*; under that degree, *two shillings*; and for every labourer and servant, *one shilling*; on refusal or inability, *ten days* imprisonment in *Bridewell*, with hard labour, and a penalty of *forty shillings* on the Constable who, hearing the same, neglects to apprehend the party. These penalties go wholly to the poor of parish where offence is committed, except the *forty shillings*, half of which goes to the informer. It is the Constable's duty to apprehend beggars, and in order further to incite him thereto, the law hath given a reward upon the commitment of every vagabond, and inflicts a penalty of *ten shillings* on the Constable, for every neglect. The Constable, when he apprehends vagrants, must be careful to be able to prove they have either begged in his view, or have evidence to produce that they are common and notorious beggars.

Nota, *The foregoing are cases in which no*

war-

warrant or process is necessary for the Constable to execute his office.

It is necessary now to shew the Constable his duty in the other departments of his office, viz. *at the Sessions, to the Sheriff and Coroner, to the Justice of the Peace, and to the High Constable*; all whom he is by law bound to obey.

This duty is signified to the Constable by *At the Sessions* warrant under their hands and seals, (except where the Justice be present); and a careful perusal of every warrant, will be his best guide in this part of his office. They are in general granted for the suppression of illegal games, and sports at fairs; cock-throwing, and gaming on the Lord's day, &c.

It is the Constable's duty to obey the warrants of the Sheriff; as a right discharge of his office is of no less consequence to the public than advantage to himself; at executions, his behaviour should be such as may do credit to himself and his office. He is to obey the Sheriff or his substitute, preserve the King's peace, and not suffer a mob (as is customary on those occasions) to extend punishment beyond the just sentence of the law. *To the Sheriff.*

Warrants issued by the Coroner, the Constable is, by his duty, obliged to obey, as well in summoning juries as apprehending persons charged with, or suspected of murder. *To the Coroner.*

This officer, though connected with the Constable, has not, by virtue of his office, any positive authority over him, and can only command him by virtue of such warrants and orders as he receives from the *Sessions, Sheriff, and Justices*. These orders the Constable is obliged to obey under the penalties of the law. *To the High Constable.*

The precept the Constable receives from his High Constable, enumerates the several of- *Presentments to the Sessions*

*and Grand
Jury.*

fences at large, presentable by him at the Sessions and Grand Juries. It behoves the Constable in this duty to observe a proper form in distinguishing the christian and surnames of the offenders, their occupations, and places of abode. If women, whether single, married, or widows; and if he presents on his own knowledge, either bawdy-houses or gaming-houses, the Constable is to mention how long they have been kept; the presentment must be absolute. If the presentment is on the report of others, then it must be specified in the presentment, that such houses are only reputed so.— If the return be for bad pavement, the Constable is to mention as near as he can the length and breadth, and the person's christian and surname before whose door it is, or the landlord's name, if the house be empty.

*Constable's
conduct to-
wards the
magistrates.*

The Constable's behaviour towards the magistrates must be respectful and obedient; it will reflect an honour on himself, and teach the common people a due subordination. He should never be officious, so as to make himself a party in a complaint, unless he is called on by the magistrate; he should be silent, and let the law take its course. When called by the magistrate to explain any matter that has come under his cognizance, he should be explicit and impartial in his answers.

*Constable's
conduct in
executing
search-war-
rants.*

In executing of search warrants, it is necessary the Constable should use great prudence and circumspection; they should be executed between the rising and setting of the sun at farthest, not beyond the season of visible daylight. These warrants are frequently founded on mistakes; they may fall on the innocent; and too much caution cannot be used to avoid justice being converted into oppression. He should with civility acquaint the parties upon whom

whom the warrant is to be executed, of the occasion of his visit, viz. that suspicion has arisen that part of the goods stolen are lodged with them, which is the cause of the search; advising them if any of the things stolen are in their custody, to produce them voluntarily, and give evidence against the felon; for if they deny the knowledge of them, and such things should, upon search, be found, or evidence, afterwards appear that they were in their custody, the law may construe their denial, and secreting the goods, into a felonious intent; the consequence of which, may be transportation for *fourteen years*: After the Constable has admonished the party suspected of having stolen goods in his possession, let him be careful in his search, in proportion to the bulk or minuteness of the things lost. The warrant directs, that if he should find the things stolen, or any part thereof, he is to bring them and the party in whose custody they are found, to answer before the magistrate. In this business, it would be prudent for the Constable to avoid error and mistake in ascertaining the property found, always to take a person with him able to swear to it. The Constable should never break open locks, until the parties (on demand) have refused to open them.

The Constable must take care to keep in his custody all stolen goods that he may find in the execution of search-warrants, in order that they may be produced in evidence upon the trial of the prisoner; the identity of the things taken is to be proved on his oath, as well as the time when, and place where taken; if he suffers such goods to go even out of his sight, he weakens his evidence, if he does not entirely destroy it. Should the goods taken be by accident or otherwise lost, he is not only

*Must keep
the goods re-
covered on
a search-
warrant.*

answerable to the court for his misconduct, but also to the prosecutor for the value of the goods recovered. It will not be a sufficient plea to the court, to say you left the goods in the hands of a Justice; the law requires them at the hands of the person who took them.

How the goods recovered are considered in the hands of the Constable, and how he can legally get quit of them.

The goods taken upon persons charged with felony, or by search-warrants, are, in idea of law, in abeyance, i. e. *suspence*, or having no certain owner, till the property is determined by a court and jury. After the jury have returned their verdict, if the prisoner be convicted, you are to deliver such goods to the prosecutor. If the prisoner be acquitted, such goods revert to him, the cause of seizure being discharged. If any difficulty should arise concerning the restitution of the goods, it would be prudent in the Constable to take the directions of the court; for though it is his absolute duty to produce the goods at the trial, yet when the same is over, he must take particular care as to the delivery of the same, lest he suffer by actions from both parties.

Nota, In breaking open doors, to take felons or to assist the officers of the Revenue, the Constable, on finding the doors fast, is to call with an audible voice to the persons within, demanding entrance in the King's name, as a Constable; if the parties within refuse to answer, or answering, refuse to open the door, he is then justified in using force, which he cannot do till such demand is made.

The duty of High and Petty Constables in assisting at fires.

By *stat. 6 Anne*, it is the duty of those officers, on notice given them, (indeed they should make a point to leave word with their watchmen where they may be found, should a fire happen in the night) to repair to the place where

where any fire shall happen in their severa^l parishes, there to assist in the extinguishing it, by compelling persons present to work at the engines, and do such other service as shall lead to prevent the flames from spreading; to apprehend pilferers and idle persons supposed to attend for the purpose of robbing the distressed. .

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